

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

www.flsb.uscourts.gov

In re:

All American Semiconductor, Inc.,

Debtors.

Case No: 07-12963-BKC-LMI,
Case Nos. 07-12965 through 07-12967-
BKC-LMI; Case No. 07-12969 through
07-12974-KC-LMI; Case Nos. 07-12976
through 07-12979-BKC-LMI; Case Nos.
07-12981 through 07-12991- BKC-LMI;
Case No. 07-12993-BKC-LMI; Case
Nos. 07-12995 through 07-13002-BKC-
LMI

Chapter 11
(Jointly Administered)

OFFICIAL COMMITTEE OF UNSECURED CREDITORS'
REVISED SECOND ~~THIRD~~ AMENDED PLAN OF LIQUIDATION
(CONFORMED)

Dated: ~~January 16,~~ April 9, 2009

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TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION.....	1
ARTICLE I. DEFINITIONS.....	1
ARTICLE II. TREATMENT OF SUPER-PRIORITY CLAIMS, ADMINISTRATIVE CLAIMS, PRIORITY TAX CLAIMS AND UNITED STATES TRUSTEE’S FEES.....	13
ARTICLE III. CLASSIFICATION OF CLAIMS AND INTERESTS.....	15
ARTICLE IV. TREATMENT OF CLASSES OF CLAIMS AND INTERESTS.....	16
ARTICLE V. EFFECTUATION AND IMPLEMENTATION OF PLAN.....	20
ARTICLE VI. DISCHARGE , INJUNCTION AND OTHER LIMITATIONS OF LIABILITY.....	32 <u>33</u>
ARTICLE VII. OBJECTIONS TO CLAIMS AND INTERESTS	36
ARTICLE VIII. EXECUTORY CONTRACTS AND LEASES	36 <u>37</u>
ARTICLE IX. DISTRIBUTIONS.....	37 <u>38</u>
ARTICLE X. PROVISIONS TO INVOKE CRAMDOWNS PROCEEDINGS IF NECESSARY	40 <u>41</u>
ARTICLE XI. AMENDMENT AND MODIFICATION.....	40 <u>41</u>
ARTICLE XII. REVOCATION.....	41
ARTICLE XIII. RETENTION OF JURISDICTION.....	41 <u>42</u>
ARTICLE XIV. MISCELLANEOUS PROVISIONS	44 <u>45</u>
ARTICLE XV. CONFIRMATION REQUEST.....	48 <u>49</u>
ARTICLE XVI. CONCLUSION	49 <u>50</u>

INTRODUCTION

The official committee of unsecured creditors (the “Committee”) appointed in the above-captioned bankruptcy cases of All American Semiconductor, Inc., et al. (collectively, the “Debtors”)* hereby proposes this ~~Revised Second~~**Third** Amended Plan of Liquidation (as defined more fully below, the “Plan”)¹ pursuant to Section 1121 of the United States Bankruptcy Code.

Reference is made to the Disclosure Statement (as defined more fully below, the “Disclosure Statement”) accompanying this Plan for a discussion of, among other things, the major events of these Chapter 11 Cases, treatment of Claims against and Interests in the Debtors, preservation of Litigation Claims, risk factors, liquidation analysis, tax implications, alternatives to the Plan, a summary and analysis of this Plan and certain related matters.

ALL HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE PLAN ARE ENCOURAGED TO READ THIS PLAN AND THE DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THIS PLAN. SUBJECT TO CERTAIN RESTRICTIONS AND REQUIREMENTS SET FORTH IN SECTION 1127 OF THE BANKRUPTCY CODE, BANKRUPTCY RULE 3018 AND IN THIS PLAN, THE COMMITTEE RESERVES THE RIGHT TO ALTER, AMEND, MODIFY, REVOKE OR WITHDRAW THIS PLAN PRIOR TO THE EFFECTIVE DATE (DEFINED BELOW).

* The Debtors are All American Semiconductor, Inc., Access Micro Products, Inc., All American A.V.E.D., Inc., All American Added Value, Inc., All American Semiconductor of Atlanta, Inc., All American Semiconductor of Chicago, Inc., All American Semiconductor of Florida, Inc., All American Semiconductor of Huntsville, Inc., All American Semiconductor of Massachusetts, Inc., All American Semiconductor of Michigan, Inc., All American Semiconductor of Minnesota, Inc., All American Semiconductor of New York, Inc., All American Semiconductor of Philadelphia, Inc., All American Semiconductor of Phoenix, Inc., All American Semiconductor of Portland, Inc., All American Semiconductor of Rockville, Inc., All American Semiconductor of Salt Lake, Inc., All American Semiconductor of Texas, Inc., All American Semiconductor-Northern California, Inc., All American Semiconductor of Washington, Inc., All American Technologies, Inc., All American Transistor of California, Inc., Aved Industries, Inc., Palm Electronics Manufacturing Corp., All American Semiconductor of Ohio, Inc., All American Semiconductor of Wisconsin, Inc., All American Semiconductor of Rhode Island, Inc., All American IDT, Inc., AmeriCapital, LLC, AGD China, Inc., All American Semiconductor of Canada, Inc., AllAmMex Components, S. de R.L. de C.V., AGD Electronics Asia Pacific Co., Ltd., and AGD Electronics Limited.

¹ The Plan incorporates (i) the Committee’s Revised Second Amended Plan of Liquidation (C.P. No. 1056) (the “Revised Second Amended Plan”), (ii) the Modification and Amendment of the Official Committee of Unsecured Creditors’ Revised Second Amended Plan of Liquidation (C.P. No. 1152) (the “Modification”) (the Revised Second Amended Plan, as modified and amended by the Modification, was filed as C.P. No. 1162) and (iii) three additional modifications discussed at the Confirmation Hearing. The schedules to the Plan are those filed on March 17, 2009 (C.P. No. 1119).

ARTICLE I.

DEFINITIONS

A. **Scope of Definitions.** For purposes of this Plan and to the extent not otherwise provided herein, the terms below shall have the respective meanings hereinafter set forth and designated with the initial letter of each word being capitalized and, unless otherwise indicated, the singular shall include the plural, the plural shall include the singular and capitalized terms shall refer to the terms as defined in this Article.

1. **“Administrative Claim”** shall mean a Claim entitled to priority under Section 507(a)(2) or 503(b) of the Bankruptcy Code; provided, however, that neither the Super-Priority Claims nor the Post-Petition Claim shall constitute an Administrative Claim.

2. **“Administrative Claim Bar Date”** shall mean the date that is 45 days after the Effective Date.

3. **“Agent”** shall mean Harris N.A. as agent for the Lenders.

4. **“Agent Member”** shall have the meaning ascribed to it in Article V.D hereof.

5. **“Allowed Administrative Claim”** shall mean all or that portion of an Administrative Claim (i) which has been allowed by a Final Order of the Bankruptcy Court, (ii) as to which (A) no objection to the allowance thereof has been or is interposed, or (B) any such objection has been settled, withdrawn or determined by a Final Order, and (iii) which meets all requirements with regard thereto as set forth under the definition of Allowed Claim, set forth herein.

6. **“Allowed Claim”** shall mean a Claim against a Debtor: (a) (i) proof of which (or, in the case of Professionals Claims, a fee application with respect to which) was timely and properly filed on or before the Bar Date, the Administrative Claims Bar Date or the Professionals Claims Bar Date, as applicable, (ii) proof of which was deemed filed pursuant to Section 1111(a) of the Bankruptcy Code, or (iii) if no such proof was Filed or deemed filed, such Claim has been listed by the Debtors on the Schedules filed under Section 521(a)(1) of the Bankruptcy Code as liquidated in amount and not disputed or contingent and, in any case, as to which (A) no objection to the allowance thereof has been or is interposed, or (B) any such objection has been settled, withdrawn or determined by a Final Order; (b) based on an application of a Professional under Section 330, Section 331, or Section 503 of the Bankruptcy Code for allowance of compensation and reimbursement of expenses in the Chapter 11 Cases, to the extent such application is approved by the Bankruptcy Court; or (c) expressly allowed under this Plan or the Confirmation Order. Unless otherwise specified herein (including in Article IX.D. hereof), or by order of the Bankruptcy Court, “Allowed Claim” shall not include interest on such Claim for the period from and after the Petition Date.

7. **“Allowed Interest”** shall mean an Interest (i) proof of which was timely and properly Filed on or before the Bar Date or which has been listed by the Debtors on the Schedules, (ii) which has been allowed by a Final Order of the Bankruptcy Court, and, in any

case (iii) as to which (A) no objection to the allowance thereof has been or is interposed, or (B) any such objection has been settled, withdrawn or determined by a Final Order.

8. **“Allowed Priority Claim”** shall mean a Priority Claim (i) which has been allowed by a Final Order of the Bankruptcy Court, (ii) as to which (A) no objection to the allowance thereof has been or is interposed, or (B) any such objection has been settled, withdrawn or determined by a Final Order, and (iii) which meets all requirements with regard thereto as set forth under the definition of Allowed Claim, set forth herein.

9. **“Allowed Professionals Claim”** shall mean a Professionals Claim (i) which has been allowed by a Final Order of the Bankruptcy Court, (ii) as to which (A) no objection to the allowance thereof has been or is interposed, or (B) any such objection has been settled, withdrawn or determined by a Final Order, and (iii) which meets all requirements with regard thereto as set forth under the definition of Allowed Claim, as set forth herein.

10. **“Allowed Secured Claim”** shall mean a Secured Claim (i) which has been allowed by a Final Order of the Bankruptcy Court, (ii) as to which (A) no objection to the allowance thereof has been or is interposed, or (B) any such objection has been settled, withdrawn or determined by a Final Order, and (iii) which meets all requirements with regard thereto as set forth under the definition of Allowed Claim, as set forth herein.

11. **“Allowed Subordinated Claim”** shall mean a Subordinated Claim (i) which has been allowed by a Final Order of the Bankruptcy Court and, in any case, (ii) as to which (A) no objection to the allowance thereof has been or is interposed, or (B) any such objection has been settled, withdrawn or determined by a Final Order.

12. **“Allowed Unsecured Claim”** shall mean an Unsecured Claim (i) which has been allowed by a Final Order of the Bankruptcy Court, or (ii) as to which (A) no objection to the allowance thereof has been or is interposed, or (B) any such objection has been settled, withdrawn or determined by a Final Order, and, in any case, (iii) which meets all requirements with regard thereto as set forth under the definition of Allowed Claim, as set forth herein.

13. **“Antitrust Claims”** shall mean the DRAM Claim and the Other Antitrust Claims.

14. **“Assets”** shall mean all property of the Debtors or the Consolidated Estate under Section 541 of the Bankruptcy Code, including, without limitation, all legal or equitable interests of the Debtors in any and all real or personal property of any nature, including any real estate, buildings, structures, improvements, privileges, rights, easements, leases, subleases, licenses, goods, materials, supplies, furniture, fixtures, equipment, work in process, accounts, chattel paper, Cash, deposit accounts, reserves, deposits, contractual rights, intellectual property rights, Claims, Litigation Claims, Unencumbered Assets, stock, and any other general intangibles, and the proceeds, product, offspring, rents or profits thereof, whether obtained through sale, disposition, judgment, decree, recovery or otherwise, and interest thereon.

15. **“Asset Sales”** shall mean, collectively, the two separate sale transactions, by which the Debtors sold certain of their assets (excluding Commercial Tort Claims, Avoidance Actions and certain other assets) to (i) Rock River Capital, LLC or its successor, All American

Semiconductor, LLC, and (ii) the Lenders, which sales were approved by the Bankruptcy Court by order dated June 6, 2007 (C.P. No. 363).

16. **“Avoidance Actions”** shall mean, collectively, all causes of action arising under Sections 544, 545, 547, 548, 550, 551 and/or 553 of the Bankruptcy Code and any other Claim of any Debtor arising solely under the Bankruptcy Code, including without limitation, all Claims arising under Chapter 5 of the Bankruptcy Code, from and after the Petition Date, whether or not litigation is commenced to prosecute such causes of action, and all proceeds thereof, including in settlement thereof. The Avoidance Actions are comprised of, without limitation (and without in any way (i) implying that additional Avoidance Actions do not exist or (ii) prejudicing the Debtors’ (before the Effective Date), the Committee’s (before the Effective Date) or the Liquidating Trustee’s (on or after the Effective Date) right to pursue, prosecute or otherwise liquidate such Avoidance Actions) those claims identified on Schedule I.A.16 hereto.

17. **“Bankruptcy Code”** shall mean Title 11 of the United States Code, 11 U.S.C. § 101, *et. seq.*, in effect as of the Petition Date, together with all amendments and modifications thereto to the extent applicable to these Chapter 11 Cases.

18. **“Bankruptcy Court”** shall mean the United States Bankruptcy Court for the Southern District of Florida, or such other court as may hereafter have jurisdiction over these Chapter 11 Cases or the Confirmation.

19. **“Bankruptcy Rules”** shall mean (a) the Federal Rules of Bankruptcy Procedure and the Official Bankruptcy Forms, as amended and promulgated under Section 2075 of title 28 of the United States Code, (b) the Federal Rules of Civil Procedure, as amended and promulgated under Section 2072 of title 28 of the United States Code, (c) the Local Rules of the United States Bankruptcy Court for the Southern District of Florida, and (d) any standing orders governing practice and procedure issued by the Bankruptcy Court, each as in effect on the Petition Date, together with all amendments and modifications thereto to the extent applicable to these Chapter 11 Cases or proceedings herein, as the case may be.

20. **“Bar Date”** shall mean, as may be applicable, (i) August 22, 2007, the last date for creditors and holders of Interests to File proofs of Claims or Interests against the Debtors or (ii) 180 days after the Petition Date with respect to governmental units with Claims against the Debtors.

21. **“Beneficiaries”** shall have the meaning ascribed to it in the Liquidating Trust Agreement.

22. **“Business Day”** shall mean any day other than a Saturday, Sunday, or “legal holiday” as such term is defined in Bankruptcy Rule 9006(a).

23. **“Cash”** shall mean money, currency and coins, negotiable checks, balances in bank accounts and other lawful currency of the United States of America and its equivalents.

24. **“Cause of Action”** shall mean (a) any Claim, and any other claim, chose in action, cause of action, suit, account, controversy, agreement, promise, right to legal remedies, rights to equitable remedies, and right to payments, (b) all objections, challenges and adversary

proceedings, including as against Claims or Interests, and (c) any other claim of any type, whether known or unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured and whether assertable directly or derivatively, and whether assertable or asserted pursuant to prior order of the Bankruptcy Court or otherwise under applicable law, whether state, federal or other applicable law.

25. **“Certain Specified Assets”** shall mean those Assets and the proceeds thereof as to which Agent and the Lenders have, pursuant to Section 9.a. of the Global Settlement Agreement, released all Liens thereon and otherwise all Claims thereto including (i) any reimbursements or other payments made on or after April 30, 2008 by any of Rock River, LLC, All American Semiconductor, LLC and/or any of their respective affiliates not to exceed \$119,000 (plus any interest thereon) in the aggregate, (ii) utility deposits not to exceed \$66,000 (plus any interest on such principal amount) in the aggregate and (iii) any funds in non-U.S. bank accounts (other than the Euro Account) (as defined in the Global Settlement Agreement) not to exceed \$121,000 (plus any interest on such principal amount) in the aggregate.

26. **“Chapter 11 Cases”** shall mean the above-captioned cases under Chapter 11 of the Bankruptcy Code for the reorganization or liquidation of the Debtors, which were commenced in the Bankruptcy Court on the Petition Date.

27. **“Claim”** shall mean any claim, as that term is defined in Section 101(5) of the Bankruptcy Code, including, without limitation, any claim of right to payment, liquidated, unliquidated, contingent, matured, unmatured, disputed or undisputed, legal, equitable, secured or unsecured.

28. **“Claimant”** shall mean any Person who asserts a Claim in these Chapter 11 Cases.

29. **“Claim Objection Deadline”** shall mean the date that is twenty four (24) months after the Effective Date, or such later date as may be established by the Bankruptcy Court, or as extended for cause by the Bankruptcy Court upon a motion of the Liquidating Trustee made on appropriate notice.

30. **“Class or Classes”** shall mean each class or classes of Claimants or holders of Interests classified under the Plan pursuant to Section 1122 of the Bankruptcy Code.

31. **“Collected Cash Accounts”** shall mean those certain bank accounts maintained by the Liquidating Trust from and after the Effective Date, (i) into which (A) all Cash remaining in the Debtors’ estates as of the Effective Date after payment of all Claims required to be paid on the Effective Date by the Liquidating Trustee under the Plan shall be deposited, and (B) all proceeds from the liquidation of the Liquidating Trust Assets from and after the Effective Date shall be deposited, (subject to any requirements as to (y) segregation of funds and (z) payments against the Super-Priority Claims as set forth in Sections 20 and 13.a., respectively, of the Global Settlement Agreement), and (ii) from which the Liquidating Trust shall make Distributions required under the Plan and otherwise to satisfy the obligations of the Liquidating Trust under the Plan.

32. “**Committee**” shall have the meaning set forth in the Introduction.
33. “**Confirmation**” shall mean the entry of an order of the Bankruptcy Court confirming the Plan in accordance with Section 1129 of the Bankruptcy Code.
34. “**Confirmation Date**” shall mean the date on which the Confirmation Order is entered on the docket by the Bankruptcy Court.
35. “**Confirmation Hearing**” shall mean the hearing conducted by the Bankruptcy Court under Section 1128 of the Bankruptcy Code wherein the Bankruptcy Court shall consider confirmation of this Plan, in accordance with Section 1129 of the Bankruptcy Code, as the same may be continued from time to time.
36. “**Confirmation Order**” shall mean the order of the Bankruptcy Court confirming this Plan pursuant to Section 1129 of the Bankruptcy Code.
37. “**Consolidated Estate**” shall mean the estates of the Debtors as substantively consolidated for voting and distribution purposes pursuant to this Plan.
38. “**D & O Claims**” shall mean the Claims that the Debtors’ estates may possess against the Debtors’ former officers and directors for, *inter alia*, breaches of fiduciary duty, breaches of the duty of loyalty, breaches of the duty of care and other related Causes of Action against former officers and directors arising before and after the Petition Date.
39. “**D&O Policy**” shall mean the Executive Protection Portfolio Policy No. 8166-0341 issued by Federal Insurance Company.
40. “**Debtors**” shall have the meaning set forth in the Introduction.
41. “**Disclosure Statement**” shall mean the “Disclosure Statement for Official Committee of Unsecured Creditors’ Revised Second Amended Plan of Liquidation” and exhibits thereto that relate to this Plan and prepared pursuant to Section 1125 of the Bankruptcy Code, as amended, modified or supplemented from time to time, which has been approved by the Bankruptcy Court and which is distributed to holders of Claims and Interests with this Plan.
42. “**Disputed Claim**” shall mean all Claims: (a) which are listed in the Schedules as disputed, contingent or unliquidated, (b) otherwise specified as a disputed Claim herein, or (c) as to which (i) an objection, or request for estimation, has been timely Filed (and not withdrawn) by any party in interest permitted to so object or otherwise request estimation, and (ii) no Final Order has been entered thereon. In the event that any part of a Claim is disputed, such Claim in its entirety shall be deemed to constitute a Disputed Claim for purposes of distribution under this Plan unless and until a Final Order has been entered allowing such Claim. Without limiting any of the above, a Claim that is the subject of a pending objection, motion, complaint, counterclaim, setoff, avoidance action, Litigation Claim or other defense, or any other proceeding seeking to disallow, subordinate or estimate such Claim, in whole or in part, shall be deemed to constitute a Disputed Claim.

43. **“Disputed Claims Fund”** shall mean the reserve created and established by the Liquidating Trustee on the books and records of the Liquidating Trust in accordance with the provisions of this Plan for the purposes of accounting for Distributions to holders of Disputed Claims in the Consolidated Estate pending the determination and allowance, if applicable, thereof by Final Order of the Bankruptcy Court. Any unused amounts accounted for in the Disputed Claims Fund shall become Cash under the Plan, available for Distribution to holders of Allowed Claims and Allowed Interests in accordance with the terms of the Plan.

44. **“Distribution”** shall mean each distribution of Cash to holders of Allowed Claims (including to the Disputed Claims Fund) and Allowed Interests pursuant to and under the terms of this Plan by the Liquidating Trustee, as applicable, on each Distribution Date.

45. **“Distribution Date”** shall mean: (i) with respect to the initial Distribution pursuant to the Plan by the Liquidating Trustee, on the later to occur of (a) thirty (30) days after the Effective Date, or (b) the date when there is sufficient Cash, in the Liquidating Trustee’s discretion, in the Collected Cash Accounts to make a meaningful distribution to holders of Allowed Claims under this Plan, provided that with respect to Disputed Claims, the initial Distribution thereon shall be made to the Disputed Claims Fund; and (ii) with respect to each subsequent Distribution by the Liquidating Trustee, the dates determined in the discretion of the Liquidating Trustee, provided, however, that no Distribution shall be made unless Cash exists in excess of any reserves determined to be appropriate by the Liquidating Trustee, including for Post Confirmation Administrative Claims, and those amounts reserved for Distributions on Disputed Claims in the Disputed Claims Fund. For the avoidance of doubt, the provisions herein for Distributions and the Distribution Date shall not affect the Liquidating Trustee’s obligation to make payments to the Agent for the benefit of the Lenders, or the timing of such payments, on account of the Super-Priority Claims, as required by and pursuant to the terms of the Global Settlement Agreement.

46. **“DRAM Claim”** shall mean the Causes of Action asserted by the Debtors against a number of companies for allegedly conspiring to fix prices in the DRAM (Dynamic Random Access Memory) chip market *et al.* in the lawsuit which is currently pending in the District Court for the Northern District of California and is styled as All American Semiconductor, Inc. v. Hynix Semiconductor, Inc. et al., Case No. 07-01200.

47. **“Effective Date”** shall mean the date which is ten (10) days after the Confirmation Date, provided, however, that the Committee may delay the Effective Date by no more than eighty (80) days beyond the date on which it would otherwise initially have occurred by Filing one or more notices of such delay with the Bankruptcy Court before the passage of the date which would have otherwise been the Effective Date.

48. **“Filing, to File, Filed or the like”** shall mean the filing with the Bankruptcy Court, to file with the Bankruptcy Court, or the status of having been filed with the Bankruptcy Court, in a format and by a method complying with any and all Bankruptcy Rules.

49. **“Final DIP Order”** shall mean the Bankruptcy’s Court’s Final Order (1) authorizing Debtors to Use Cash Collateral, (2) Authorizing Debtor All American Semiconductor, Inc. to Incur Post-Petition Secured Indebtedness and Authorizing Certain Other

Debtors to Incur Related Obligations, (3) Granting Security Interests and Priority Claims Pursuant to 11 U.S.C. § 364, (4) Granting Adequate Protection and Other Relief, and (5) Modifying Automatic Stay, dated May 21, 2007 (C.P. No. 256), as such order has been modified and / or amended by the terms of the Global Settlement Agreement.

50. **“Final Order”** shall mean an order or judgment of the Bankruptcy Court which has not been reversed, stayed, modified or amended and: (i) as to which the time to appeal or seek reconsideration or rehearing thereof has expired; (ii) in the event of a motion for reconsideration or rehearing is filed, such motion shall have been denied by an order or judgment of the Bankruptcy Court; or (iii) in the event that an appeal is filed and pending, a stay pending appeal has not been entered; provided, however, that with respect to an order or judgment of the Bankruptcy Court allowing or disallowing a Claim, such order or judgment shall have become final and non-appealable; provided, further, that the possibility that a motion under Section 502(j) of the Bankruptcy Code or under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or analogous rule under the Bankruptcy Rules, may be filed with respect to such order or judgment shall not cause such order or judgment not to be a Final Order.

51. **“Global Settlement Agreement”** shall mean that certain Settlement Agreement dated June 23, 2008 among the Committee, the Debtors, the Lenders and the Agent. The Global Settlement Agreement, which was approved by an order of the Bankruptcy Court dated July 22, 2008 (C.P. No. 981), is attached hereto as Exhibit A.

52. **“Impairment”** or **“Impaired”** shall have the meaning under Section 1124 of the Bankruptcy Code.

53. **“Interest”** shall mean any “equity security” interest in any of the Debtors as the term is defined in Section 101(16) of the Bankruptcy Code.

54. **“Interim Compensation Procedures Order”** shall mean the Bankruptcy Court’s Administrative Order under 11 U.S.C. §§ 105(a) and 331 Establishing Procedures for Interim Compensation and Reimbursement of Professionals, dated May 10, 2007 (C.P. No. 152).

55. **“Lenders”** shall mean, collectively, Harris N.A., U.S. Bank National Association, GMAC Commercial Finance LLC, PNC Bank, National Association and First Bank Business Capital, Inc., and their respective successors and assigns.

56. **“Lenders’ Claims”** shall mean the Pre-Petition Claim and the Post-Petition Claim. The Lenders’ Claims are Allowed Claims.

57. **“Lender Deficiency Claim”** shall mean the Unsecured Claim of the Lenders consisting of that portion of the aggregate amount of the Lenders’ Claims that exceeds the value of the Lender Secured Claim, subject to the limitations set forth in, and modification in accordance with, the Final DIP Order and the Global Settlement Agreement (it being understood that the amount of the Lender Deficiency Claim shall be further reduced by any amounts received by the Lenders on account of the Super-Priority Claims).

58. **“Lender Secured Claim”** shall mean that portion of the Lenders’ Claims that are Secured Claims, subject to the limitations set forth in, and modification in accordance with, the

Final DIP Order and the Global Settlement Agreement. The Lender Secured Claim is secured by all Assets of the Debtors and their estates that are not Unencumbered Assets.

59. **“Lien”** shall mean any valid and undisputed mortgage, lien, charge, security interest, encumbrance or other security device of any kind affecting any Asset of the Debtors or the Consolidated Estate.

60. **“Liquidating Trust”** shall mean that certain irrevocable trust created and established pursuant to the Plan for the benefit of holders of Allowed Claims and Allowed Interests against the Debtors or the Consolidated Estate, into which the Liquidating Trust Assets shall be transferred and vested on the Effective Date for all purposes under the Plan.

61. **“Liquidating Trust Agreement”** shall mean that certain Liquidating Trust Agreement which sets forth the terms and conditions of the Liquidating Trust, as well as the duties and responsibilities of the Liquidating Trustee, which agreement is substantially in the form attached as Exhibit B hereto. The final version of the Liquidating Trust Agreement shall be Filed prior to the Confirmation Hearing, and its terms shall be treated as if comprising terms of this Plan.

62. **“Liquidating Trust Assets”** shall mean all Assets of the Debtors’ estates, which Liquidating Trust Assets are proposed to be transferred to and vested in the Liquidating Trust under and in accordance with the terms of the Plan on the Effective Date. Liquidating Trust Assets shall include all Assets of or belonging to the Debtors, or any of them and the Consolidated Estate, including all such Assets as may have been created by virtue of the Bankruptcy Code, and expressly includes all Unencumbered Assets, all Assets of the Committee, as well as all other Litigation Claims, and the rights to prosecute, enforce and settle same.

63. **“Liquidating Trust Creditors’ Committee”** shall have the meaning set forth in Article V.D. hereof.

64. **“Liquidating Trust Creditors’ Committee By-laws”** mean the by-laws according to which the Liquidating Trust Creditors’ Committee shall be governed and operate, as such by-laws may be duly amended from time to time. The Liquidating Trust Creditors’ Committee By-laws as shall be in effect as of the Effective Date and shall be Filed by the Committee prior to the Confirmation Hearing.

65. **“Liquidating Trustee”** shall mean Kenneth A. Welt, individually, and any duly appointed successor thereof. The Liquidating Trustee shall be considered a party in interest.

66. **“Litigation Claims”** shall mean any and all Causes of Action by any of the Debtors, the Committee or any other party-in-interest, in law, equity or otherwise, which are owned or held by, or have accrued to, any of the Debtors or their estates, whether arising before or after the Petition Date, including without limitation, those which are: (i) property of the Debtors’ estates under and pursuant to Section 541 of the Bankruptcy Code; (ii) for subrogation and contribution; (iii) for turnover; (iv) Avoidance Actions; (v) to determine the extent, validity and priority of liens and encumbrances; (vi) for surcharge under Section 506(c) of the Bankruptcy Code; (vii) for subordination under Section 510 of the Bankruptcy Code or otherwise objections or challenges to the validity of any Claims or Interests in any respect

(including, without limitation, as to amount, status, priority and whether asserted in an adversary proceeding or not); (viii) related to federal or state securities laws; (ix) direct or derivative claims or causes of action of any type or kind; (x) for professional malpractice against professionals employed by any of the Debtors; (xi) against any and all current and/or former officers and directors of any of the Debtors, including for breach of fiduciary duty; (xii) under and pursuant to any policies of insurance, including for bad faith, maintained by any of the Debtors, including without limitation, the D&O Policy; (xiii) the D&O Claims; (xiv) for theft of corporate opportunity; (xv) for collection on accounts, accounts receivables, loans, notes receivables or other rights to payment; (xvi) for the right to seek a determination by the Bankruptcy Court of any tax, fine or penalty relating to a tax, or any addition to a tax, under Section 505 of the Bankruptcy Code; (xvii) which arise under or as a result of any section of the Bankruptcy Code, including Section 362; (xviii) the Antitrust Claims; (xix) to the extent not otherwise set forth above, as described in the Disclosure Statement; and (xx) to the extent not otherwise described above, the Unencumbered Assets. The Litigation Claims (other than the Avoidance Actions) are comprised of, without limitation (and without in any way (i) implying that additional Litigation Claims do not exist or (ii) prejudicing the Debtors' (before the Effective Date), the Committee's (before the Effective Date) or the Liquidating Trustee's (on or after the Effective Date) right to pursue, prosecute or otherwise liquidate such Litigation Claims) those Causes of Action identified on Schedule I.A.65 hereto.

67. **"Material Action"** shall have the meaning ascribed to it in Section 1.3(vii) of the Liquidating Trust Agreement.

68. **"Other Antitrust Claims"** shall mean (a) the Causes of Action that the Debtors, their estates or the Consolidated Estate may have against certain companies that allegedly conspired to fix prices in the markets for, or otherwise violated antitrust or similar law with respect to, any or all of the following:

- (i) SRAM (Static Random Access Memory) chips and products;
 - (ii) Flat Panel (LCD) chips;
 - (iii) TFT-LCD products;
 - (iv) Graphics Card chips;
 - (v) NAND flash memory products;
 - (vi) DRAM (Dynamic Random Access Memory) chips and other products with regard to Causes of Action that are not currently being brought by any of the Debtors in the pending lawsuit in which the DRAM Claim is being asserted (or, if being brought, this definition includes such Causes of Action as against any other or further defendants that have not been named therein); and
 - (vii) any other product that the Debtors may have purchased at any time;
- and

(b) any and all related Causes of Action.

69. **"Other Secured Claims"** shall mean all Secured Claims other than the Lender Secured Claim.

70. **“Person”** shall mean an individual, corporation, partnership, limited liability company, joint venture, trust, estate, unincorporated association, unincorporated organization, governmental entity, or political subdivision thereof, or any other entity.

71. **“Petition Date”** shall mean April 25, 2007.

72. **“Plan”** shall mean this ~~Revised Second~~**Third** Amended Plan of Liquidation in its entirety, together with all addenda, exhibits and schedules in its present form or as it may be modified, amended or supplemented from time to time.

73. **“Post-Confirmation Administrative Claim”** shall mean a Claim for services rendered or expenses incurred after the Effective Date in connection with these Chapter 11 Cases by the Liquidating Trust and/or the Post Confirmation Professionals.

74. **“Post Confirmation Professionals”** shall have meaning set forth in Article V.C. hereof.

75. **“Post-Petition Claim”** shall have the meaning set forth in Section 13.a of the Global Settlement Agreement, subject to reduction, and potential increase, as set forth in the Global Settlement Agreement.

76. **“Pre-Petition Claim”** shall have the meaning set forth in Section 13.a of the Global Settlement Agreement, subject to reduction as set forth in the Global Settlement Agreement.

77. **“Priority Claim”** shall mean a Claim entitled to priority under Section 507(a)(4)-(7) and (9) of the Bankruptcy Code.

78. **“Priority Tax Claim”** shall mean a Claim entitled to priority under Section 507(a)(8) of the Bankruptcy Code.

79. **“Professionals”** shall mean a Person (a) employed in the Chapter 11 Cases pursuant to a Final Order in accordance with Section 327, 328 or 1103 or otherwise of the Bankruptcy Code and to be compensated for services, which services were rendered prior to the Effective Date, pursuant to Sections 327, 328, 329, 330, 331 and 363 of the Bankruptcy Code, or (b) for which compensation and reimbursement has been allowed by the Bankruptcy Court pursuant to Section 503(b) (4) of the Bankruptcy Code.

80. **“Professionals Claims”** shall mean Claims of Professionals for compensation or reimbursement of expenses, relating to services performed after the Petition Date through the Effective Date.

81. **“Professionals Claims Bar Date”** shall mean the date by which all Professionals must File applications for the final allowance of their respective Professionals Claims, which date shall be the date that is 45 days after the Effective Date.

82. **“Schedules”** shall mean the Schedules and Statement of Financial Affairs Filed by the Debtors pursuant to Sections 521(a)(1) and 1106(a)(2) of the Bankruptcy Code, as amended and supplemented.

83. **“Secured Claim”** shall mean a Claim against any of the Debtors, their estates or the Consolidated Estate which, as of the Effective Date and, if necessary, pursuant to a valuation by the Bankruptcy Court pursuant to Section 506(a) of the Bankruptcy Code, is secured by a valid, enforceable and perfected mortgage, lien, security interest or other encumbrance of any kind, or any Lien, against Assets of the Debtors’ estates, and which is not subject to avoidance under the Bankruptcy Code or applicable non-bankruptcy law.

84. **“Subordinated Claim”** shall mean a Claim that is subordinated by Final Order of the Bankruptcy Court, whether pursuant to Section 510 of the Bankruptcy Code or otherwise.

85. **“Super-Priority Claims”** shall mean the Post-Petition Claim, subject to the limitations set forth in the Global Settlement Agreement. The Super-Priority Claims are Allowed Claims in the aggregate amount of \$8,926,370.00 (as of February 29, 2008), subject to (i) the limitations set forth in the Final DIP Order and the Global Settlement Agreement, (ii) increase solely in accordance with Section 13.a. of the Global Settlement Agreement and (iii) reduction on account of payments made to the Lenders or the Agent in respect of the Super-Priority Claims pursuant to the Global Settlement Agreement.

86. **“Tax Refund Assets”** shall mean the tax refunds and the proceeds thereof to which the Debtors may be entitled on account of their federal income tax returns for 2006, 2007 and subsequent years (fiscal or calendar, as applicable), if any.

87. **“Tax Refund Reimbursement Assets”** shall mean 50% of the costs and expenses reasonably and directly incurred by the Debtors or their successors in successfully obtaining and receiving any Tax Refund Assets, which costs and expenses shall, in accordance with Section 7.c. of the Global Settlement Agreement, be recovered from the Tax Refund Assets.

88. **Intentionally Omitted.**

89. **“Unsecured Claim”** shall mean any Claim against any of the Debtors or the Consolidated Estate, but not including a Super-Priority Claim, a Professionals Claim, an Administrative Claim, a Post-Confirmation Administrative Claim, a Priority Claim, a Secured Claim (including the Lender Secured Claim), a Priority Tax Claim, or a Subordinated Claim.

90. **“Unclaimed Property”** shall mean any distribution of Cash or any other property made to the holder of an Allowed Claim or an Allowed Interest pursuant to this Plan that (i) is returned to the Liquidating Trustee as undeliverable and no appropriate forwarding address is received within the later of (A) 90 days after the Effective Date and (B) 90 days after such attempted Distribution by the Liquidating Trustee is made to such holder, or (ii) in the case of a distribution made in the form of a check, is not negotiated within 90 days and no request for re-issuance is made in writing to the Liquidating Trustee within such 90 day period.

91. **“Unencumbered Assets”** shall mean (i) those categories of Assets (and the proceeds thereof) identified in Section 6.a.-i. of the Global Settlement Agreement, as to which

such Assets, pursuant to the Global Settlement Agreement, the Agent and the Lenders have released any Liens that they may have had, (ii) the Certain Specified Assets and the Tax Refund Reimbursement Assets, and (iii) the Assets otherwise described in the Global Settlement Agreement, including Section 17 thereof with regard to avoided Liens, as to which the Liens of the Agent and the Lenders do not or no longer apply.

92. **“Waterfall”** shall mean the Super-Priority Claims “waterfall” established in Section 10.c. of the Final DIP Order and as amended by Sections 14 and 16 of the Global Settlement Agreement, and as otherwise described as the “Waterfall” in the Global Settlement Agreement.

B. Rules of Interpretation. Any term used but not defined herein shall have the meaning given to it by the Bankruptcy Code or the Bankruptcy Rules, if used therein. The words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Plan as a whole, not to a particular section, subsection, paragraph, subparagraph or clause, unless the context requires otherwise. Whenever it appears appropriate from the context, each term stated in the singular or the plural includes the singular and the plural, and each pronoun stated in the masculine, feminine or neuter includes the masculine, feminine and the neuter. All captions and headings to articles and paragraphs of the Plan are inserted for convenience and reference only and are not intended to be a part or to affect the interpretation of the Plan. Any rules of construction set forth in Section 102 of the Bankruptcy Code shall apply, unless superseded herein or in the Confirmation Order. In computing any period of time prescribed or allowed by this Plan, unless otherwise expressly provided, the provisions of the Bankruptcy Rule 9006(a) shall apply.

ARTICLE II.

TREATMENT OF SUPER-PRIORITY CLAIMS, ADMINISTRATIVE CLAIMS, PRIORITY TAX CLAIMS AND UNITED STATES TRUSTEE’S FEES

The following Super-Priority Claims, Administrative Claims, Priority Tax Claims and United States Trustee’s Fees are not Impaired under the Plan and will be treated as follows:

1. **Super-Priority Claims.** The Lenders shall be paid up to 100% of their Super-Priority Claims (subject to the limitations, including as to amount, sources and payment, set forth in the Final DIP Order and the Global Settlement Agreement, including the Waterfall). In accordance with Sections 7., 9., and 10. of the Global Settlement Agreement, the Lenders shall not be entitled to receive any of the proceeds of the Avoidance Actions, the Certain Specified Assets or the Tax Refund Reimbursement Assets on account of their Super-Priority Claims.

2. **Administrative Claims.** The holders of Allowed Administrative Claims (including Allowed Professionals Claims) against any of the Debtors’ estates shall be paid 100% of their Allowed Administrative Claims in Cash, unless otherwise ordered by the Bankruptcy Court, (i) upon the earlier to occur of (A) the later of the Effective Date or the date of a Final Order allowing such Administrative Claim or (B) for Allowed Administrative Claims that represent liabilities incurred by the Debtors in the ordinary course of business after the Petition

Date, the date on which each such Claim becomes due in the ordinary course of the Debtors' business and in accordance with the terms and conditions of any agreement relating thereto or (ii) upon such other dates and terms as may be agreed upon by the holder of any such Allowed Administrative Claim, on the one hand, and the Committee (prior to the Effective Date, and subject to Bankruptcy Court approval of such settlement), the Debtors (prior to the Effective Date, and subject to Bankruptcy Court approval of such settlement) or the Liquidating Trustee (on or after the Effective Date). Notwithstanding the foregoing, each holder of an Allowed Administrative Claim that agrees in writing or on the record during the Confirmation Hearing to the treatment described below in this paragraph 2 shall be deemed to have agreed to accept, in full satisfaction of such Claim, Distributions on each Distribution Date of Cash on deposit from time to time in the Collected Cash Accounts; provided, that (i) Distributions on account of any Allowed Administrative Claim at a time when the Super-Priority Claims have not been satisfied in full shall be made subject to the terms of the Final DIP Order and the Global Settlement Agreement (including, without limitation, the Waterfall), and (ii) no Distributions will be made on account of any Allowed Administrative Claim if, at the time of such possible Distribution, any outstanding Post-Confirmation Administrative Claims have not been satisfied in full (or funds satisfactory for the payment thereof in the judgment of the Liquidating Trustee have not been reserved for the satisfaction thereof); provided, further, that, holders of Allowed Administrative Claims may receive the proceeds of Avoidance Actions, the Certain Specified Assets and the Tax Refund Reimbursement Assets on account of their Allowed Administrative Claims without regard to whether the Super-Priority Claims have been paid any amount.

3. **Priority Tax Claims.** Each holder of an Allowed Priority Tax Claim under Section 507(a)(8) of the Code shall be paid, in the Liquidating Trustee's discretion, either (A) in installments consistent with the provisions of Section 1129(a)(9)(C) of the Bankruptcy Code, or (B) in full in Cash on the later of (i) the Effective Date, (ii) the date on which, pursuant to Final Order, such Priority Tax Claim is allowed by the Bankruptcy Court, or (iii) such later date and on terms as agreed to by the holder of an Allowed Priority Tax Claim, on the one hand, and the Committee (prior to the Effective Date, subject to Bankruptcy Court approval), the Debtors (prior to the Effective Date, subject to Bankruptcy Court approval) or the Liquidating Trustee (after the Effective Date). The specific treatment to be provided pursuant to (A) above in this paragraph shall be as follows: upon the Effective Date, and thereafter on the Business Day which is closest to the 25th day of each October and April thereafter, through and including April of 2012, the holder of each Allowed Priority Tax Claim shall receive an installment equal to 1/7th of the amount of such Claim; provided, however, that the entire amount of any such Allowed Priority Tax Claim shall be paid in full prior to any Distribution on account of an Allowed Unsecured Claim or on account of the Lender Deficiency Claim (it being understood that, subject to the limitations in the immediately following sentence, the Liquidating Trustee may, at his discretion, pay any Allowed Priority Tax Claims in full at any time); provided, further, that any amount of such Allowed Priority Tax Claim which is paid after the Effective Date shall include any statutory interest accrued thereon during the period following the Effective Date (to the extent that such interest has not otherwise then already been paid). Notwithstanding the foregoing, (i) Distributions on account of any Allowed Priority Tax Claim at a time when the Super-Priority Claims have not been satisfied in full shall be made subject to the terms of the Final DIP Order and the Global Settlement Agreement (including, without limitation, the Waterfall), and (ii) no Distributions will be made on account of any Allowed Priority Tax Claim if, at the time of such possible Distribution, (A) any outstanding Post-Confirmation

Administrative Claims have not been satisfied in full (or funds satisfactory for the payment thereof in the judgment of the Liquidating Trustee have not been reserved for the satisfaction thereof) or (B) any Allowed Administrative Claims have not been satisfied in full, reserved for or otherwise resolved, and/or included in or accounted for in the Distribution at issue; provided, further, that, holders of Allowed Priority Tax Claims may receive the proceeds of Avoidance Actions, the Certain Specified Assets and the Tax Refund Reimbursement Assets on account of their Allowed Priority Tax Claims without regard to whether the Super-Priority Claims have been paid any amount.

4. **United States Trustee's Fees.** The Debtors shall pay the U.S. Trustee the appropriate sum required pursuant to 28 U.S.C. § 1930(a)(6) on the Effective Date, and simultaneously provide to the U.S. Trustee an appropriate affidavit indicating Cash disbursements for all relevant periods; notwithstanding anything contained in the Plan to the contrary, the Liquidating Trustee shall further pay the U.S. Trustee the appropriate sum required pursuant to 28 U.S.C. § 1930(a)(6) for post-confirmation periods within the time periods set forth in 28 U.S.C. § 1930(a)(6) until the earlier of the closing of these cases by the issuance of a final decree by the Bankruptcy Court, or upon entry of an order of this Bankruptcy Court dismissing these cases, or converting this case to another chapter under the United States Bankruptcy Code, and the Liquidating Trustee shall provide to the U.S. Trustee, upon the payment of each post-confirmation payment, a quarterly report and appropriate affidavit indicating income and disbursements for the relevant periods. To date, the Debtors have paid all fees due and owing to the Office of the United States Trustee, and the Debtors, or the Liquidating Trustee, as applicable, anticipate paying all such fees through Confirmation of the Plan and thereafter as provided herein.

ARTICLE III.

CLASSIFICATION OF CLAIMS AND INTERESTS

A. Generally.

Pursuant to Section 1122 of the Bankruptcy Code, set forth below is a designation of the Classes of Claims and Interests in the Debtors' estates. A Claim or Interest is placed in a particular Class only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and such Claim or Interest has not been paid, released, or otherwise settled or paid prior to the Effective Date. In accordance with Section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims of the kinds specified in Sections 507(a)(2) and 507(a)(8) of the Bankruptcy Code have not been classified, are deemed not to be Impaired and are treated as set forth in Article II above.

B. Classification.

For purposes of this Plan, the Classes of Claims and Interests shall be separated as follows:

- a. Class 1: Allowed Priority Claims.
- b. Class 2A: Lender Secured Claim.

- c. Class 2B: Allowed Other Secured Claims.
- d. Class 3: Allowed Unsecured Claims.
- e. Class 4: Lender Deficiency Claim.
- f. Class 5: Allowed Subordinated Claims.
- g. Class 6: Allowed Interests.

Classes 3, 4, 5 and 6 are Impaired under the Plan. Classes 1, 2A and 2B are not Impaired under the Plan. As such, Classes 1, 2A and 2B are deemed to have accepted the Plan pursuant to Section 1126(f) of the Bankruptcy Code. Classes 5 and 6 are not expected to receive or retain any property under the Plan and therefore are deemed to have rejected the Plan pursuant to Section 1126(g) of the Bankruptcy Code.

ARTICLE IV.

TREATMENT OF CLASSES OF CLAIMS AND INTERESTS

A. Generally.

The treatment of and consideration to be received by holders of Claims and the treatment of Interests pursuant to this Article IV shall be in full satisfaction, settlement, release, extinguishment and discharge of their respective Claims against, or Interests in, the Debtors' estates, the Assets and the Consolidated Estate, except as otherwise expressly provided in this Plan or the Confirmation Order.

B. Consolidation.

This Plan shall serve as, and shall be deemed to be, a motion for entry of an order consolidating the Debtors' estates for voting and claim distribution purposes only.

On the Effective Date, the Debtors' estates shall be consolidated as follows: (i) all intercompany claims by, between and among the Debtors shall be forgiven and eliminated, (ii) all assets and liabilities of each of the Debtors shall be treated as if they were owned or owed by a single entity, the Consolidated Estate, (iii) any obligation of the Debtors and all guarantees thereof by the Debtors shall be deemed to be one obligation of the Consolidated Estate, (iv) each Claim Filed or to be Filed against any of the Debtors shall be deemed Filed against the Consolidated Estate and shall be deemed a single Claim against and a single obligation of the Consolidated Estate, and (v) all Interests in any of the Debtors owned by any other Debtor (to the extent not cancelled pursuant to the other provisions of the Plan) shall be disregarded for distribution and voting purposes.

C. Treatment.

1. Class 1. Allowed Priority Claims. Each Allowed Priority Claim against the Consolidated Estate shall be paid in full on the later of: (i) the Effective Date; (ii) the date of a

Final Order allowing such Priority Claim; or (iii) such other date and terms as may be agreed by the Committee (prior to the Effective Date, and subject to Bankruptcy Court approval), the Debtors (prior to the Effective Date, and subject to Bankruptcy Court approval) or the Liquidating Trustee (on or after the Effective Date), on the one hand, and a holder of an Allowed Priority Claim, on the other hand. Subject to the terms set forth above in this paragraph 1, holders of Allowed Priority Claims may receive the proceeds of Avoidance Actions, the Certain Specified Assets and the Tax Refund Reimbursement Assets on account of their Allowed Priority Claims without regard to whether the Super-Priority Claims have been paid any amount.

2. Class 2A. Lender Secured Claim. At the option of the Liquidating Trustee, Lenders shall receive on account of their Lender Secured Claim, (i) Cash in an amount equal to the unpaid amount of the Lender Secured Claim, (ii) the proceeds of the sale or disposition of the collateral securing such Lender Secured Claim, to the extent of the value of the Lenders' secured interest in the Lender Secured Claim, (iii) the collateral securing such Lender Secured Claim (including pursuant to abandonment, provided that no assets shall be abandoned to the Lenders in satisfaction of the Lender Secured Claim except with prior written consent of the Agent and the Lenders or upon twenty (20) days' prior notice to the Agent and the Lenders), (iv) such other treatment that leaves unaltered the legal, equitable and contractual rights to which the Lenders are entitled, or (v) such other distribution as agreed to by Committee (prior to the Effective Date, subject to Bankruptcy Court approval), the Debtors (prior to the Effective Date, subject to Bankruptcy Court approval) or the Liquidating Trustee (on or after the Effective Date), on the one hand, and the Lenders, on the other hand, or as otherwise necessary to satisfy the requirements of the Bankruptcy Code; provided, however, that the treatment of the Lender Secured Claim shall not in any case violate the terms of the Final DIP Order or the Global Settlement Agreement. Without limiting the foregoing, the Liquidating Trustee shall administer the Tax Refund Assets according to Section 7 of the Global Settlement Agreement. Other than the Tax Refund Assets, and in light of the terms of the Global Settlement Agreement, the Committee believes that no Assets constitute collateral securing the Lender Secured Claim.

3. Class 2B. Allowed Other Secured Claims. Each Allowed Other Secured Claim against the Debtors or their estates shall be classified in a separate sub-class within this Class 2B and shall be satisfied by each holder of an Allowed Other Secured Claim receiving from the Debtors or their estates one or more of the following, at the option of the Liquidating Trustee, either (i) Cash in an amount equal to the unpaid amount of the Other Secured Claim, (ii) the proceeds of the sale or disposition of the collateral securing such Allowed Other Secured Claim to the extent of the value of the holder's secured interest in the Allowed Other Secured Claim, (iii) the collateral securing such Allowed Other Secured Claim, (iv) a note with periodic cash payments having a present value equal to the amount of the Allowed Other Secured Claim, (v) such other treatment that leaves unaltered the legal, equitable and contractual rights to which the holder of such Allowed Other Secured Claim is entitled, or (vi) such other distribution as agreed to by the Committee (prior to the Effective Date, subject to Bankruptcy Court approval), the Debtors (prior to the Effective Date, subject to Bankruptcy Court approval) or the Liquidating Trustee (on or after the Effective Date), on the one hand, and the holder of an Allowed Other Secured Claim, on the other, or as otherwise necessary to satisfy the requirements of the Bankruptcy Code. Such satisfaction shall occur on the later of the Effective Date or the date each respective Class 2B Other Secured Claim is allowed by a Final Order. Notwithstanding the foregoing, all of the Debtors' tangible collateral was transferred as part of the Asset Sales and the

proceeds thereof were paid to the Lenders on account of the Secured Claims of the Lenders identified in the Final DIP Order. As a result, the Debtors are not holding any tangible collateral that they owned as of the Petition Date (or any of the proceeds thereof) and, therefore, the Committee asserts that the value of each Allowed Other Secured Claims, and each of them, is zero (\$0.00), and shall be conclusively deemed to be so pursuant to this Plan.

4. Class 3. Allowed Unsecured Claims. Each Allowed Unsecured Claim against the Debtors or their estates shall be satisfied by Distributions on each Distribution Date of Cash on deposit from time to time in the Collected Cash Accounts to the holder of each such Allowed Unsecured Claim on a *pro rata* basis with (i) the other holders of Allowed Unsecured Claims in this Class 3 and (ii) the Lenders on account of the Lender Deficiency Claim; provided, that the holders of the Lender Deficiency Claim shall not be entitled to receive any distribution on account thereof from the proceeds of the Certain Specified Assets; provided, further, that, as to the Debtors only (and not as to the Debtors' estates, the Assets, the Liquidating Trust Assets or the Consolidated Estate), the Distributions hereunder do not purport to be in satisfaction of any Claims or Interests (unless such Claims or Interests are paid in full or otherwise satisfied in full). Notwithstanding the foregoing, (i) Distributions on account of any Allowed Unsecured Claim in this Class 3 at a time when the Super-Priority Claims have not been satisfied in full shall be made subject to the terms of the Final DIP Order and the Global Settlement Agreement (including, without limitation, the Waterfall), and (ii) no Distributions will be made on account of any Allowed Unsecured Claim in this Class 3 if, at the time of such possible Distribution, (A) any outstanding Post-Confirmation Administrative Claims have not been satisfied in full (or funds satisfactory for the payment thereof in the judgment of the Liquidating Trustee have not been reserved for the satisfaction thereof) or (B) any Allowed Administrative Claims, Allowed Priority Tax Claims or any Allowed Claims in Classes 1A, 2A or 2B have not been satisfied in full, reserved for or otherwise resolved, and/or included in or accounted for in the Distribution at issue; provided, that, holders of Allowed Unsecured Claims may receive the proceeds of Avoidance Actions, the Certain Specified Assets and the Tax Refund Reimbursement Assets on account of their Allowed Unsecured Claims without regard to whether the Super-Priority Claims have been paid any amount.

5. Class 4. Lender Deficiency Claim. The Lender Deficiency Claim against the Debtors or their estates shall be satisfied by Distributions to the Lenders on a *pro rata* basis with the holders of all Allowed Unsecured Claims in Class 3; provided, that, as to the Debtors only (and not as to the Debtors' estates, the Assets, the Liquidating Trust Assets or the Consolidated Estate), the Distributions hereunder do not purport to be in satisfaction of any Claims or Interests (unless such Claims or Interests are paid in full or otherwise satisfied in full). The Distributions to the Lenders hereunder shall be made on each Distribution Date and shall be made from Cash on deposit from time to time in the Collected Cash Accounts. Notwithstanding the foregoing, (i) Distributions on account of the Lender Deficiency Claim in this Class 4 at a time when the Super-Priority Claims have not been satisfied in full shall be made subject to the terms of the Final DIP Order and the Global Settlement Agreement (including, without limitation, the Waterfall), and (ii) no Distributions will be made on account of the Lender Deficiency Claim in this Class 4 if, at the time of such possible Distribution, (A) any outstanding Post-Confirmation Administrative Claims have not been satisfied in full (or funds satisfactory for the payment thereof in the judgment of the Liquidating Trustee have not been reserved for the satisfaction thereof) or (B) any Allowed Administrative Claims, Allowed Priority Tax Claims or any

Allowed Claims in Classes 1A, 2A or 2B have not been satisfied in full, reserved for or otherwise resolved, and/or included in or accounted for in the Distribution at issue; provided, that the Lenders may receive the proceeds of Avoidance Actions and the Tax Refund Reimbursement Assets on account of their Lender Deficiency Claim without regard to whether the Super-Priority Claims have been paid any amount; provided, further, that the holders of the Lender Deficiency Claim shall not be entitled to receive any of the proceeds of the Certain Specified Assets on account thereof at any time. Notwithstanding any of the foregoing which may be to the contrary, any Distribution made or to be made on account of the Lender Deficiency Claim at a time of any Last Distribution (as defined in the Global Settlement Agreement) shall occur subject to Section 13.b. of the Global Settlement Agreement.

6. Class 5. Allowed Subordinated Claims. Each Allowed Subordinated Claim against the Consolidated Estate shall be satisfied by Distributions to the holder of each such Allowed Subordinated Claim on a *pro rata* basis with the other holders of all Allowed Subordinated Claims in this Class 5; provided, that, as to the Debtors only (and not as to the Debtors' estates, the Assets, the Liquidating Trust Assets or the Consolidated Estate), the Distributions hereunder do not purport to be in satisfaction of any Claims or Interests (unless such Claims or Interests are paid in full or otherwise satisfied in full). The Distributions to the holders of Allowed Subordinated Claims hereunder shall be made on each Distribution Date and shall be made from Cash on deposit from time to time in the Collected Cash Accounts. Notwithstanding the foregoing, (i) Distributions on account of any Allowed Subordinated Claims in this Class 5 at a time when the Super-Priority Claims have not been satisfied in full shall be made subject to the terms of the Final DIP Order and the Global Settlement Agreement (including, without limitation, the Waterfall), and (ii) no Distributions will be made on account of any Allowed Subordinated Claims in this Class 5 if, at the time of such possible Distribution, (A) any outstanding Post-Confirmation Administrative Claims have not been satisfied in full (or funds satisfactory for the payment thereof in the judgment of the Liquidating Trustee have not been reserved for the satisfaction thereof) or (B) any Allowed Administrative Claims, Allowed Priority Tax Claims or any Allowed Claims in Classes 1-4 have not been satisfied in full, reserved for or otherwise resolved, and/or included in or accounted for in the Distribution at issue. No Distributions are expected to be made on account of Allowed Subordinated Claims under the Plan.

7. Class 6. Allowed Interests. Each Allowed Interest shall be satisfied by Distributions to the holder of each such Allowed Interest on a *pro rata* basis with the other holders of all such Allowed Interests in this Class 6; provided, that, as to the Debtors only (and not as to the Debtors' estates, the Assets, the Liquidating Trust Assets or the Consolidated Estate), the Distributions hereunder do not purport to be in satisfaction of any Claims or Interests (unless such Claims or Interests are paid in full or otherwise satisfied in full). The Distributions to the holders of Allowed Interests hereunder shall be made on each Distribution Date and shall be made from Cash on deposit from time to time in the Collected Cash Accounts. Notwithstanding the foregoing, (i) Distributions on account of any Allowed Interests in this Class 6 at a time when the Super-Priority Claims have not been satisfied in full shall be made subject to the terms of the Final DIP Order and the Global Settlement Agreement (including, without limitation, the Waterfall), and (ii) no Distributions will be made on account of any Allowed Interests in this Class 6 if, at the time of such possible Distribution, (A) any outstanding Post-Confirmation Administrative Claims have not been satisfied in full (or funds satisfactory for

the payment thereof in the judgment of the Liquidating Trustee have not been reserved for the satisfaction thereof) or (B) any Allowed Administrative Claims, Allowed Priority Tax Claims or any Allowed Claims in Classes 1-5 have not been satisfied in full, reserved for or otherwise resolved, and/or included in or accounted for in the Distribution at issue. Notwithstanding anything to the contrary herein, there shall be no Distribution on any Interest except Allowed Interests in Debtor All American Semiconductor, Inc. (and, in any case, subject to the other terms of this Plan). Subject to the right to receive Distributions hereunder, all Interests shall be cancelled as of the Effective Date, except Interests held by any Debtor in any other Debtor (it being understood that such Interests shall not entitle any Debtor to receive or retain any property or interest in property on account thereof). No Distributions are expected to be made on account of Allowed Interests under the Plan.

ARTICLE V.

EFFECTUATION AND IMPLEMENTATION OF PLAN

A. Generally.

On the Effective Date of the Plan, (i) the Liquidating Trust Assets (including, without limitation, all Litigation Claims) shall vest in, and be transferred to, the Liquidating Trust, which Liquidating Trust, acting through the Liquidating Trustee, shall constitute, be appointed as and be deemed a representative of the Consolidated Estate pursuant to and in accordance with the terms of Section 1123(b)(3)(B) of the Bankruptcy Code solely for the benefit of all holders of Allowed Claims and Allowed Interests under the Plan with respect to, among other things, all Litigation Claims and (ii) the Liquidating Trust, acting through the Liquidating Trustee, is and shall be authorized and appointed to investigate, bring, raise, maintain, prosecute, forego, waive, enforce, pursue and settle, and continue to investigate, maintain, prosecute, enforce, pursue and settle, the liquidation of such Liquidating Trust Assets (including, without limitation, all Litigation Claims), including as a representative of the Consolidated Estate pursuant to and in accordance with the terms of Section 1123(b)(3)(B) of the Bankruptcy Code solely for the benefit of all holders of Allowed Claims and Allowed Interests under the Plan. For the avoidance of doubt, the Liquidating Trustee, acting on behalf of the Liquidating Trust, shall (i) be deemed to be the Debtors' and Committee's successor under all agreements to which the Debtors or the Committee may be party (including, without limitation, the Global Settlement Agreement and all other pre-petition agreements, post-petition agreements, settlement agreements and agreements regarding confidentiality (including any confidentiality agreements with Samsung Semiconductor, Inc.)), (ii) be entitled to exercise all of the rights of the Debtors or the Committee under any such agreement, subject only to the limitations set forth herein, and (iii) have transferred to him all confidential information that is in the possession or control of any of the Debtors or the Committee as of the Effective Date. For the further avoidance of doubt, the Liquidating Trustee, acting on behalf of the Liquidating Trust, shall be vested with all of the rights and powers of a trustee appointed under chapter 11 of the Bankruptcy Code. **For the further avoidance of doubt, it is acknowledged (and the Confirmation Order shall so provide) that the Liquidating Trust, acting through the Liquidating Trustee, has been appointed to take control of, supervise, manage or liquidate the Debtors within the meaning of Subsection 6(c)(v) of the Executive Liability and Entity Securities Liability Coverage Section of the D&O Policy. Therefore (and the Confirmation Order shall so**

provide), the D&O Policy's "Insured vs. Insured" exclusion shall not be implicated with respect to any Litigation Claims brought by the Liquidating Trust, acting through the Liquidating Trustee, against any Insured Person (as defined in the D&O Policy).

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE VESTING IN AND TRANSFER OF THE LIQUIDATING TRUST ASSETS TO THE LIQUIDATING TRUST (A) SHALL BE FREE AND CLEAR OF ANY AND ALL LIENS, CLAIMS, ENCUMBRANCES AND INTERESTS OF ANY KIND WHATSOEVER, EXCEPT (i) WITH RESPECT TO THE TAX REFUND ASSETS, (ii) ANY LIENS HELD BY THE AGENT THAT WERE NOT RELEASED PURSUANT TO AND REMAIN VALID PURSUANT TO THE GLOBAL SETTLEMENT AGREEMENT, OR (iii) AS EXPRESSLY PRESERVED AND PROVIDED FOR IN THE PLAN AND THE CONFIRMATION ORDER, AND (B) SHALL NOT CAUSE ANY IMPEDIMENT, VITIATION, COMPROMISE OR DAMAGE TO ANY ASSET, INCLUDING BY VIRTUE OF THE LIQUIDATING TRUSTEE, ACTING ON BEHALF OF THE LIQUIDATING TRUST, BECOMING THE SUCCESSOR OF ANY OF THE DEBTORS, THE CONSOLIDATED ESTATE, OR THE COMMITTEE, OR OTHERWISE OF TWO OR MORE PARTIES TO THE SAME AGREEMENT, ALL SUCH RIGHTS AND BENEFITS OF EACH OF THE DEBTORS, THE CONSOLIDATED ESTATE, AND THE COMMITTEE UNDER ANY SUCH AGREEMENTS BECOMING AND REMAINING FULLY AVAILABLE TO THE LIQUIDATING TRUSTEE, EFFECTIVE AND ENFORCEABLE.

Without limiting the foregoing, the Liquidating Trustee, acting on behalf of the Liquidating Trust, shall accede to and become the holder of all rights in and to any confidentiality agreements (including any such agreements of one or more of the Debtors with Samsung Semiconductor, Inc.), joint defense agreements, and privilege agreements, as well as rights pursuant to attorney-client privilege, attorney work product and any other or similar doctrine, of the Debtors, the Consolidated Estate and the Committee, which shall vest with and in the Liquidating Trustee, acting on behalf of the Liquidating Trust, subject to the terms hereof, as part of the Liquidating Trust Assets, such that the rights and privileges of each of the Debtors, the Consolidated Estate and the Committee thereunder shall each become rights and privileges of the Liquidating Trustee, acting on behalf of the Liquidating Trust. None of the transfer and vesting to and for the Liquidating Trust or, as the case may be, the Liquidating Trustee, the participation of the Liquidating Trust Committee, nor the transfer of the Assets of multiple parties in and to the Liquidating Trust or, as the case may be, the Liquidating Trustee shall have any negative consequence to the Liquidating Trust or the Liquidating Trustee or otherwise to the integrity of or rights pursuant to any of the Liquidating Trust Assets, including any privilege or confidentiality concerning any information which comprises part of or regards any Liquidating Trust Assets or any right, authority or standing to bring, prosecute, settle, enforce and otherwise derive all benefits from the Litigation Claims. Without limiting the foregoing, and notwithstanding the terms of the Final DIP Order which may be to the contrary, the Liquidating Trustee, acting on behalf of the Liquidating Trust, shall have all status, standing, authority and right to prosecute and enforce the Litigation Claims. For the purposes of clarity, nothing in this paragraph or pursuant to the accession and succession of the Liquidating Trustee and the Liquidating Trust to rights and privileges as described in this paragraph shall cause the assumption, confirmation or validation of any contract, lease or other agreement to which the Debtors, or any of them, may then be party, whether under Section 365 or otherwise. Instead, to

the extent this Plan addresses such matters, terms with regard thereto are set forth at Article VIII hereof and Section V.J. hereof, below.

Notwithstanding anything herein to the contrary, confirmation of the Plan shall divest the Debtors of any and all right, title and/or interest in their Assets and those of the Consolidated Estate, such that the Debtors shall not have any rights or authority in respect of any Assets vested in the Liquidating Trust.

The Plan contemplates the liquidation of all Assets of the Consolidated Estate for the benefit of the holders of Allowed Claims and Allowed Interests as set forth above. A portion of the Assets has already been reduced to Cash. Some of these funds have already been transferred to the Lenders on account of the Lenders' Claims, as described in or otherwise pursuant to the Global Settlement Agreement. The remaining funds will be available for Distribution to holders of Allowed Claims and Allowed Interests in accordance with the Plan (including the Global Settlement Agreement). The Liquidating Trust is a mechanism for the liquidation and monetization of the Liquidating Trust Assets, which consist primarily of the Litigation Claims. The Liquidating Trust will be utilized to hold the Liquidating Trust Assets until they can be liquidated and monetized in an orderly fashion. The proceeds from the liquidation of the Liquidating Trust Assets (primarily from the prosecution of the Litigation Claims) shall be deposited into the Collected Cash Accounts maintained by the Liquidating Trust. All Distributions shall be made from the Collected Cash Accounts in accordance with the terms of the Plan (including the terms of the Global Settlement Agreement). The Liquidating Trust will not continue or engage in the conduct of any trade or business, except to the extent necessary to accomplish the liquidation and distribution of Liquidating Trust Assets.

From and after the Effective Date, the Liquidating Trust, acting through the Liquidating Trustee, shall expeditiously seek to collect, liquidate, sell and/or reduce to Cash all Liquidating Trust Assets, including, without limitation, through pursuit of the Litigation Claims. The foregoing shall be, however, subject to the discretion of the Liquidating Trustee and the Liquidating Trust Creditors' Committee in accordance with the terms of the Plan and the Liquidating Trust Agreement, including as to how, if and when to pursue the Litigation Claims. The Plan will be funded with (a) Cash on hand on the Effective Date, and (b) funds added to Cash after the Effective Date from, among other things, the liquidation of the Liquidating Trust Assets, including by the prosecution of the Litigation Claims.

On the Effective Date, the Liquidating Trustee, acting on behalf of the Liquidating Trust, shall be authorized to pay from Cash all Super-Priority Claims (subject to the limitations set forth in the Final DIP Order and the Global Settlement Agreement), all Allowed Administrative Expense Claims, all Allowed Priority Tax Claims, Allowed Priority Claims and the fees of the Office of the United States Trustee all in accordance with the terms of the Plan. From and after the Effective Date, the Liquidating Trustee, acting on behalf of the Liquidating Trust, shall make Distributions under the Plan as monies are available to each Allowed Claim and Allowed Interest in accordance with the Plan. The Liquidating Trustee, acting on behalf of the Liquidating Trust, shall be responsible for making Distributions under the Plan. In making Distributions under the Plan, the Liquidating Trustee, acting on behalf of the Liquidating Trust, will comply with all withholding and reporting requirements imposed by federal, state or local taxing authorities. All Distributions pursuant to the Plan will be subject to all applicable withholding and reporting

requirements. Nothing in this Plan shall modify the Liquidating Trustee's obligations pursuant to Section 13.a. of the Global Settlement Agreement regarding holding of amounts in trust for, and timing of payment to the Agent on behalf of the Lenders of, amounts attributable to the Super-Priority Claims.

The Liquidating Trustee, acting on behalf of the Liquidating Trust, may require any creditor with an Allowed Claim or holder of an Allowed Interest entitled to a Distribution under the Plan to furnish its, his or her employer or taxpayer identification number (the "TIN") assigned by the Internal Revenue Service. Any Distribution under the Plan may be conditioned on the receipt of such TIN. If any such creditor or holder of an Interest entitled to a Distribution hereunder fails to provide a requested TIN within forty-five (45) days after the request thereof, then such failure shall be deemed to be a waiver of such creditor's or Interest-holder's interest in any future Distributions, including the right to receive any future Distributions.

B. The Liquidating Trustee and the Powers and Duties of the Liquidating Trustee.

The Liquidating Trustee shall act in a fiduciary capacity for the holders of all Allowed Claims and Allowed Interests under the Plan and shall have only those rights, powers and duties conferred to him by the Plan and the Liquidating Trust Agreement, as well as the rights and powers of a trustee under sections 542 through 552 of the Bankruptcy Code, the powers and duties of a trustee appointed under Chapter 11 of the Bankruptcy Code and the powers and duties of a trustee under sections 704(1),(2),(4),(5),(7) and (9) of the Bankruptcy Code. Notwithstanding anything to the contrary otherwise set forth in this Plan or in the Liquidating Trust Agreement, the Liquidating Trustee shall have no fiduciary obligations to the holders of Allowed Interests unless and until each of the following conditions are satisfied: (i) all Allowed Claims are paid in full in accordance with this Plan; and (ii) the holders of Allowed Interests are entitled to Distributions on account of their Allowed Interests in accordance with this Plan. The Liquidating Trustee shall hold all Liquidating Trust Assets in trust for the benefit of the holders of Allowed Claims and Allowed Interests. The Liquidating Trustee shall maintain Collected Cash Accounts for the Liquidating Trust in accordance with the terms of the Plan, and the maintenance of such Collected Cash Accounts in accordance with the terms of the Plan shall be deemed to satisfy the segregation obligations imposed by Section 20 of the Global Settlement Agreement. Confirmation of the Plan shall constitute and confirm the appointment of the Liquidating Trustee for the Liquidating Trust, including to (a) exercise the rights, power and authority of the Liquidating Trust under the applicable provisions of the Plan and bankruptcy and non-bankruptcy law, and (b) retain Post Confirmation Professionals to represent the Liquidating Trust in performing and implementing the Plan, including the Professionals, and (c) otherwise implement the Plan, wind up the affairs of the Consolidated Estate and close the Case.

Notwithstanding anything to the contrary herein or in the Final DIP Order or the Global Settlement Agreement, the Liquidating Trustee, acting on behalf of the Liquidating Trust, shall have the right to prepare, file (including to File), assert, commence, prosecute and settle, or continue to prosecute in the case of existing actions, any and all Litigation Claims (including the DRAM Claim), and shall be substituted as the real party in interest in any such actions commenced by the Debtors, the Consolidated Estate or the Committee (including with respect to the DRAM Claim). The Liquidating Trustee, acting on behalf of the Liquidating Trust, shall

prosecute or defend, as appropriate, such actions through final judgment, any appeals deemed necessary and appropriate by the Liquidating Trustee and the Liquidating Trustee shall have the power and authority (A) to enter into such settlements as the Liquidating Trustee deems to be in the best interest of the holders of Allowed Claims and Allowed Interests (it being understood that if and only if the Liquidating Trust Creditors' Committee so directs with respect to a settlement pursuant to its powers under the Liquidating Trust Agreement, such settlement shall be subject to Bankruptcy Court approval after notice and a hearing in accordance with Bankruptcy Rule 9019); or (B) subject to Bankruptcy Court approval after notice and a hearing, to abandon, dismiss and/or decide not to prosecute any such Litigation Claims if the Liquidating Trustee deems such action to be in the best interest of the holders of Allowed Claims and Allowed Interests. Without limiting the foregoing, the Liquidating Trustee shall have and enjoy all rights, powers, standing, grounds and bases for prosecution and recovery on the Litigation Claims (including, without limitation, all legal, equitable and statutory grounds and further including, without limitation, any rights to any equitable or injunctive relief of any type, whether permanent or temporary, or of any other type), and shall have and enjoy all rights, powers, standing, grounds and bases for defense against any cross-claims, counter-claim or the like and to defeat any attempted offset against liability or the like by any other Person, including, without limitation, based on the fact that any such cross-claim, counter-claim, offset or the like constitutes or constituted a Claim against a Debtor, which is limited to recovery as against the Debtors, the Consolidated Estate or the Liquidating Trust based only on the rights (if any) to Distributions, as Beneficiaries (if any), and otherwise as may be expressly provided for this Plan.

The Liquidating Trustee shall have the power and authority to bring and prosecute under the Plan the Litigation Claims, pursuant to all rights and powers described in or contemplated by the Plan, which shall include, without limitation, the Liquidating Trustee enjoying the benefit of the latest date by which to bring and/or prosecute any Litigation Claims as otherwise available to the Debtors prior to the Confirmation Date with regard to any Assets under the Bankruptcy Code or otherwise applicable law, including pursuant to a contract or otherwise pursuant Sections 108(a) and 546(a)(1)(A) of the Bankruptcy Code. Without limiting any other rights or benefits accruing to the Liquidating Trustee, the Liquidating Trustee shall further enjoy, with regard to the Liquidating Trust Assets, all benefits that the Debtors otherwise enjoy concerning the Assets prior to the Confirmation Date pursuant to Section 108(b) of the Bankruptcy Code. None of the foregoing shall limit or shorten any period of time which may be otherwise available to the Liquidating Trustee to take any action, bring or prosecute any Cause of Action or otherwise any Litigation Claim, as may be otherwise available under the Plan and/or other applicable law.

In addition, the Liquidating Trustee, acting on behalf of the Liquidating Trust, will have authority to take all actions necessary to: (a) hold, manage, protect, administer, collect, sell, liquidate, prosecute, transfer, resolve, settle, adjust, invest, distribute, or otherwise dispose of any Liquidating Trust Assets; (b) reconcile Claims and Interests and contest objectionable Claims, Disputed Claims and Interests, including by bringing any actions or the like for subordination of any Claims; (c) make all Distributions to be funded under the Plan; (d) pay all necessary expenses incurred in connection with the duties and responsibilities of the Liquidating Trustee under the Plan, and to borrow funds if and to the extent necessary to do so; (e) administer, implement and enforce all provisions of the Plan applicable to the Liquidating Trust; (f) file tax returns and make other related corporate filings related to the Debtors; (g) administer the Plan and the Liquidating Trust Assets; (h) abandon any of the Liquidating Trust Assets (provided that

no assets shall be abandoned to the Lenders in satisfaction of the Lender Secured Claim, except with prior written consent of the Agent and the Lenders or upon twenty (20) days' prior notice to the Agent and the Lenders); (i) invest Cash in accordance with Section 345 of the Bankruptcy Code or otherwise as permitted by order of the Bankruptcy Court; (j) purchase and carry all insurance policies and pay all premiums and costs deemed necessary and advisable; and (k) undertake such other responsibilities as are reasonable and appropriate in connection with the Plan.

Notwithstanding the foregoing, the Liquidating Trustee may not take, or refrain from taking, any Material Action without the consent of the Liquidating Trust Creditors' Committee. In the event of a dispute between the Liquidating Trustee and the Liquidating Trust Creditors' Committee (or any member thereof) with respect to any proposed Material Action, the Bankruptcy Court shall retain jurisdiction to determine whether the proposed action should be taken, upon motion by the Liquidating Trustee or the Liquidating Trust Creditors' Committee.

The Liquidating Trustee shall post a bond in favor of the Liquidating Trust in an amount equal to not less than 125% of the amount of Liquidating Trust Assets which are Cash at any time. The cost of such bond is payable from the Liquidating Trust Assets. After making each successive Distribution provided for under the Plan, the Liquidating Trustee shall have the right to seek a refund of the bond premium based upon the diminution of the Liquidating Trust Assets resulting from each such Distribution.

The Liquidating Trustee may resign at any time; provided, however, that the Liquidating Trustee shall File a motion in connection therewith and request that a successor or replacement Liquidating Trustee be appointed in accordance herewith, which motion shall be on notice to the Liquidating Trust Creditors' Committee, the Agent and the Lenders, the top twenty (20) unsecured creditors with Allowed Claims and the Office of the United States Trustee. The Office of the United States Trustee or any party in interest, by a Filed motion, or the Bankruptcy Court on its own order to show cause, may seek to remove the Liquidating Trustee for cause, including under Section 324 of the Bankruptcy Code, for the violation of any material provision of the Plan, or in the event the Liquidating Trustee becomes incapable of acting as the Liquidating Trustee as a result of physical or mental disability and such physical or mental disability continues for a period in excess of thirty (30) days (except in the case of death, in which instance, the procedures for replacement will begin immediately). The Liquidating Trust Creditors' Committee may remove the Liquidating Trustee at any time, with or without cause, by Filing an appropriate motion and obtaining an order from the Bankruptcy Court approving such removal. In the event of a resignation or removal, the Liquidating Trustee, unless he or she is incapable of doing so, shall continue to perform his or her duties hereunder until such a time as a successor is approved by a Final Order of the Bankruptcy Court. In the event the Liquidating Trustee resigns or is removed, the successor Liquidating Trustee shall be selected by the Liquidating Trust Creditors' Committee, in its sole discretion.

Upon the Effective Date and without further action by the Bankruptcy Court, the directors and officers of the Debtors shall be deemed to have been terminated without cause (though, if terminated prior thereto or if such person resigned prior thereto, such deemed termination without cause shall not affect the actual terms of such preceding termination or resignation). Confirmation of the Plan shall constitute the appointment of the Liquidating

Trustee as the sole responsible officer and director for each of the Debtors. From and after the Effective Date, the Debtors shall be managed and governed by the Liquidating Trustee (including any successor Liquidating Trustee). The Liquidating Trustee (including any successor Liquidating Trustee) shall remain as such officer and director of each of the Debtors until the earlier of the time of dissolution of such Debtor as described below, or his or her resignation or termination as such officer and/or director.

From and after the Effective Date, the Liquidating Trustee shall be authorized and empowered to dissolve or cause each of the Debtors to be dissolved as corporations and/or limited liability companies or other organizational form and shall be authorized and empowered to take any and all action and execute any and all documents as may be necessary to effectuate such dissolution except to the extent the Liquidating Trustee deems it necessary or desirable to do otherwise in order to prosecute the Litigation Claims under the Plan or otherwise exercise the authority of the Liquidating Trust or the Liquidating Trustee under the Plan or accomplish the purposes of the Plan. Unless dissolved earlier by the Liquidating Trustee pursuant hereto, upon the Distribution of all Liquidating Trust Assets pursuant to the Plan, each of the Debtors will be dissolved for all purposes effective as of the final Distribution Date without the necessity for any other or further actions to be taken by or on behalf of the Liquidating Trustee or payments to be made in connection therewith; provided, however, that the Liquidating Trustee shall be authorized to file with the official public office for keeping corporate records in each of the Debtors' respective states of incorporation or organization a certificate of dissolution or equivalent document. Such a certificate of dissolution may be executed by the Liquidating Trustee without need for any action or approval by any shareholder, manager or board of directors of the Debtors. From and after the Effective Date, the Debtors (a) for all purposes will be deemed to have withdrawn their respective business operations from any state in which the Debtors were previously conducting, or were registered or licensed to conduct, their respective business operations, and will not be required to file any document, pay any sum or take any other action, in order to effectuate such withdrawal, (b) will be deemed to have cancelled pursuant to the Plan all Interests (except for Interests owned by any Debtor in any other Debtor on the Effective Date), and (c) will not be liable in any manner to any taxing authority for franchise, business, license or similar taxes accruing on or after the Effective Date. The Liquidating Trustee has and shall have the authority to take any action in accordance with applicable law, to the extent not in contravention of the other provisions of this Plan, to maximize the value of the Consolidated Estate and Distributions to holders of Allowed Claims. The Liquidating Trustee shall be authorized to file with the official public office for keeping corporate records in each of the Debtors' respective states of incorporation or organization the documents, certificates and instruments necessary or useful for the Liquidating Trustee to effectuate the acts described in the immediately preceding sentence, and the Liquidating Trustee may execute same without need for any action or approval of any shareholder, manager or board of directors of the Debtors.

Kenneth A. Welt, individually, shall be permitted to serve as Liquidating Trustee, notwithstanding that he is and was an officer and director of the Debtors.

C. Fees of the Liquidating Trustee; Retention and Payment of Post-Confirmation Professionals; Employment of Staff.

The Liquidating Trustee shall be entitled to compensation in connection with fulfilling his duties hereunder and under the Liquidating Trust Agreement at a rate not greater than \$275 per hour, plus reasonable out of pocket expenses; provided, that, the Liquidating Trustee's compensation shall in no event exceed the amounts which would otherwise be available to a Chapter 7 trustee under the provisions of Section 326 of the Bankruptcy Code. The Liquidating Trustee shall not receive or be entitled to receive any other compensation on account of the performance of his duties hereunder and under the Liquidating Trust Agreement.

The Liquidating Trust, through the Liquidating Trustee, may engage counsel, financial advisors and other professionals, including counsel, financial advisors and other professionals engaged by the Committee or any of the Debtors during the Chapter 11 Cases, to represent it in connection with its duties under the Plan (i.e., the "Post Confirmation Professionals"). The Liquidating Trust shall not be precluded from retaining Post-Confirmation Professionals for the sole reason that such Professionals possess Professionals Claims against the Consolidated Estate. Any reasonable fees and expenses of such Post Confirmation Professionals shall constitute Post Confirmation Administrative Claims and shall be paid from Cash in accordance herewith. The Liquidating Trustee and the Post Confirmation Professionals shall be paid their fees and expenses on a monthly basis in accordance with the terms of their respective agreements with the Liquidating Trust and the Liquidating Trustee, unless the Liquidating Trust Creditors' Committee timely notifies the Liquidating Trustee in writing that it does not believe that such fees and/or costs are reasonable. Any dispute as to the reasonableness of the fees and/or costs of the Liquidating Trustee or its Post Confirmation Professionals shall be submitted to and determined by the Bankruptcy Court. In case of such dispute, the Liquidating Trustee shall reserve such funds as necessary to pay in full such fees and expenses as may be subject to dispute (or such funds as may then be available to the Liquidating Trust, if less), such reserved funds to be released subject to and upon either agreement of the Liquidating Trust Creditors' Committee or Final Order. No interest shall be paid on such disputed amounts by the Liquidating Trust.

To the extent that the Liquidating Trust engages or retains Post Confirmation Professionals subject to an agreement which calls for payments other than on a monthly basis, the Liquidating Trustee shall pay such Post Confirmation Professionals in accordance with the terms of their respective agreements, subject to the rights of the Liquidating Trust Creditors' Committee and such Post Confirmation Professionals, as described above.

No order of the Bankruptcy Court shall be required for the Liquidating Trust, through the Liquidating Trustee, to engage and retain any Post Confirmation Professionals (including on an hourly basis, a contingency fee basis, a monthly retainer basis or any other basis for remuneration), nor for the Liquidating Trust to pay any Post Confirmation Professionals their fees and expenses as described above; provided, however, that no less frequently than every 180 days, the Post Confirmation Professionals and the Liquidating Trustee shall file an application with the Bankruptcy Court seeking approval of their respective fees and expenses which, as of such application, have then been paid by the Liquidating Trust or invoiced to the Liquidating Trust. Such application shall be served on the members of the Liquidating Trust Creditors'

Committee and the United States Trustee, with a copy provided to the chambers of the Bankruptcy Court judge presiding over the jurisdiction reserved and preserved pursuant to this Plan. Without limiting any other provision hereof providing for the retention of jurisdiction by the Bankruptcy Court, the Bankruptcy Court shall retain jurisdiction to allow or disallow, and otherwise adjudicate, Post-Confirmation Administrative Claims. The applications to be submitted pursuant to this paragraph need not be in the format required by the Local Rules of the Bankruptcy Court or the United States Trustee's Guidelines, but shall be sufficiently detailed to identify the hours worked, the rates charged and the work performed. In the case of fees or expenses paid on a basis which is not by billable hours, the application shall include such other, sufficiently specific information so that the Bankruptcy Court can otherwise determine the reasonableness of such fees and expenses.

The foregoing requirements for application to and approval by the Bankruptcy Court of fees and expenses shall also apply to any legal counsel that the Liquidating Trust Creditors' Committee may engage or retain.

The Liquidating Trust may employ such staff and obtain such equipment and premises as are reasonably necessary (as determined in the discretion of the Liquidating Trustee) to carry out its functions and duties, store the books and records of the Debtors and compensate such staff and pay for such equipment and premises from the Liquidating Trust Assets as Post-Confirmation Administrative Claims.

D. The Liquidating Trust Creditors' Committee.

On or before the Confirmation Hearing, a three-member oversight committee shall be formed (the "Liquidating Trust Creditors' Committee"). One member of such Liquidating Trust Creditors' Committee shall be the Agent or its designee (the "Agent Member"). The Committee shall appoint from among its members the remaining two initial members of the Liquidating Trust Creditors' Committee. In addition, the Committee shall appoint from its members an alternate (the "Alternate") member of the Liquidating Trust Creditors' Committee; provided, that, except as set forth below, the Alternate shall not vote on any matter nor shall it be considered in determining whether a quorum of the Liquidating Trust Creditors' Committee is present at a meeting.

The Liquidating Trust Creditors' Committee shall represent the interests of the Beneficiaries during the existence of the Liquidating Trust, and shall have the obligation to undertake in good faith each of the acts and responsibilities set forth for the Liquidating Trust Creditors' Committee in the Liquidating Trust Agreement and in the Plan, for the benefit of the Beneficiaries. The Liquidating Trust Creditors' Committee shall have such powers, rights and duties, including with respect to the Liquidating Trustee, the Liquidating Trust Assets and the exercise by the Liquidating Trustee of any discretion otherwise afforded thereto, all as set forth in the Liquidating Trust Agreement and in the Plan (including, without limitation, to (i) remove the Liquidating Trustee, with or without cause, by Filing an appropriate motion and obtaining an order from the Bankruptcy Court directing such removal and (ii) select a successor Liquidating Trustee). Vacancies on the Liquidating Trust Creditors' Committee (including with respect to the Alternate) shall be filled by the vote of the remaining members of the Liquidating Trust Creditors' Committee, the candidates to fill such vacancy being holders of one or more Allowed

Unsecured Claims, which candidates do not also hold a Secured Claim, a Super-Priority Claim, an Administrative Claim (other than Post-Confirmation Administrative Claims), a Priority Tax Claim, or a Priority Claim; provided, however, that, except if the Agent Member has been removed for cause in accordance with the procedures set forth below, the Agent shall have the sole authority to appoint any replacement or successor to the initial or any subsequent Agent Member without regard to whether such successor Agent Member holds a Secured Claim, a Super-Priority Claim, an Administrative Claim (other than Post-Confirmation Administrative Claims), a Priority Tax Claim, or a Priority Claim. If any such vacancy has not been filled within ninety (90) days of the first day of such vacancy, the Liquidating Trustee may petition to the Bankruptcy Court to fill such vacancy. Any Beneficiary may petition the Bankruptcy Court at any time for removal of any members of the Liquidating Trust Creditors' Committee for cause, and any member of the Liquidating Trust Creditors' Committee shall have standing to petition the Bankruptcy Court for such relief as such member deems appropriate, in good faith, with regards to this Plan, the Global Settlement Agreement, the Liquidating Trust Agreement, the Liquidating Trust Creditors' Committee and the Liquidating Trust Creditors' Committee By-laws, but subject to the provisions regarding jurisdiction of the Bankruptcy Court under law and Article XIII of this Plan. The Liquidating Trust Creditors' Committee shall be governed by the Liquidating Trust Creditors' Committee By-laws. In addition, the Liquidating Trust Creditors' Committee shall have the right, at its discretion, to retain legal counsel for the Liquidating Trust Creditors' Committee (but not for the individual members thereof), and the reasonable fees and expenses of such counsel shall be subject to payment as a Post-Confirmation Administrative Claim; provided, that the reasonableness of such fees and expenses shall be determined by the Liquidating Trustee in the first instance; provided, further, that if there is a dispute with respect to any determination by the Liquidating Trustee that some or all of the fees and/or expenses of counsel for the Liquidating Trust Creditors' Committee are not reasonable, the Liquidating Trust Creditors' Committee and/or its affected counsel shall have the right to petition the Bankruptcy Court for a final determination. In such circumstance, the Liquidating Trustee shall reserve such funds as necessary to pay in full such fees and expenses as may be subject to dispute (or such funds as may then be available to the Liquidating Trust, if less), such reserved funds to be released subject to and upon either agreement of the Liquidating Trustee or Final Order. No interest shall be paid on such disputed amounts by the Liquidating Trust. For the avoidance of doubt, it shall not be considered improper for counsel to the Liquidating Trust to counsel the Liquidating Trust Creditors' Committee based solely on the fact that such counsel represents the Liquidating Trust.

Notwithstanding any provision of this Plan, the Liquidating Trust Agreement or the Liquidating Trust Creditors' Committee By-laws, none of the individual Members of the Liquidating Trust Creditors' Committee, nor the Alternate, shall have any obligation or duty to any of the Beneficiaries or any Claimant.

E. Disputed Claims Fund.

On the Effective Date of the Plan, or as soon thereafter as possible, the Liquidating Trustee shall establish the Disputed Claims Fund. The Liquidating Trustee, acting on behalf of the Liquidating Trust, shall be responsible for making the Distributions to the holders of Allowed Claims and Allowed Interests pursuant to the terms of the Plan; provided, that the Disputed Claims Fund, if applicable, is maintained as well as sufficient funds to pay and reserve for all

Post Confirmation Administrative Claims.

To the extent there exist as of the Effective Date Disputed Claims in any Class, the Liquidating Trustee, acting on behalf of the Liquidating Trust, shall cause Cash to be reserved from any Distribution in an amount equal to the *pro rata* portion of such Distribution to which such Disputed Claim would be entitled if allowed in the amount asserted by the holder of such Disputed Claim. If a Disputed Claim is subsequently allowed then the Liquidating Trustee, acting on behalf of the Liquidating Trust, shall, from Cash theretofore deposited into the Disputed Claim Fund allocable to such Claim, distribute to the holder of any such Claim an amount equal to such Claimant's *pro rata* share, based on such Allowed Claim, of all Distributions previously made to holders of Allowed Claims in the Class of Claims at issue. The balance, if any, of the Cash reserved for such Disputed Claim, including in the event the Disputed Claim is disallowed in its entirety, shall be held by the Liquidating Trust. Notwithstanding anything herein to the contrary and except as provided in Article IX.D hereof, no interest shall accrue or be payable on the Cash deposited into the Disputed Claims Fund in respect of any Disputed Claims. Any unused amounts accounted for in the Disputed Claims Funds shall become Cash under the Plan, available for distribution to holders of Allowed Claims and Allowed Interests in accordance with the terms of the Plan.

F. Indemnity of Liquidating Trustee and the Liquidating Trust Creditors' Committee.

The Liquidating Trust shall indemnify and hold the Liquidating Trustee and the Liquidating Trust Creditors' Committee (including each of the members thereof, including the Alternate) harmless from and against any damages, costs, claims and other liabilities incurred in connection with their respective duties and responsibilities hereunder, other than those damages, costs, claims and other liabilities that result from such party's gross negligence or willful misconduct.

G. Miscellaneous.

Notwithstanding anything to the contrary in the Bankruptcy Rules providing for earlier closure of these Chapter 11 Cases, when all Disputed Claims against the Consolidated Estate have become Allowed Claims or have been disallowed by Final Order, and all remaining Liquidating Trust Assets have been liquidated and converted into Cash (other than those Assets abandoned), and such Cash has been distributed in accordance with the Plan, or at such earlier time as the Liquidating Trustee deems appropriate, the Liquidating Trustee shall File a final accounting, together with a final report, and shall seek authority from the Bankruptcy Court to close these cases in accordance with the Bankruptcy Code and the Bankruptcy Rules. The Liquidating Trustee shall serve until such time as the entry of a final decree closing these Chapter 11 Cases, at which time the Liquidating Trustee and the Post Confirmation Professionals engaged by him shall be discharged and shall have no further responsibilities under the Plan. Further, the Liquidating Trust Creditors' Committee shall be dissolved at such time, and the members thereof shall have no further responsibilities as members of the Liquidating Trust Creditors' Committee, whether under the Plan or otherwise.

H. No Res Judicata Effect.

Notwithstanding anything to the contrary in the Plan or in the Disclosure Statement, the provisions of the Disclosure Statement and the Plan that permit the Liquidating Trustee, acting on behalf of the Liquidating Trust, to enter into settlements and compromises of any Litigation Claims shall not have, and are not intended to have, any res judicata or collateral estoppel effect with respect to any Litigation Claims that are not otherwise treated under the Plan and shall not be deemed a bar to asserting such Litigation Claims, regardless of whether or to what extent such Litigation Claims are specifically described in the Plan or Disclosure Statement. Furthermore, unless any of the Litigation Claims are expressly waived, relinquished, exculpated, released, compromised or settled in the Plan or by Final Order of the Bankruptcy Court, all such Litigation Claims are expressly reserved and preserved in favor of the Liquidating Trust, acting through the Liquidating Trustee, on behalf of the Consolidated Estate, for later adjudication and, therefore, no preclusion doctrine, including without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise) or laches shall apply to such Litigation Claims upon or after Confirmation or consummation of the Plan, without regard to whether or to what extent such Litigation Claims are or are not specifically described in the Plan or Disclosure Statement.

Furthermore, notwithstanding any provision or interpretation to the contrary, nothing in the Plan or the Confirmation Order, including the entry thereof, shall be deemed to constitute a release, waiver, impediment, relinquishment or bar, in whole or in part, of or to any recovery rights or any other Cause of Action, whether or not heretofore asserted or possessed by the Debtors or the Committee on behalf of the Debtors' estates prior to the Effective Date. The Liquidating Trustee, acting on behalf of the Liquidating Trust, shall have the authority to settle claims and litigation as provided in the Plan. Such settlements shall not be subject to the requirements imposed by Bankruptcy Rule 9019 and the standards set forth in In re Justice Oaks II, Ltd., 898 F. 2d 1544, 1549 (11th Cir. 1990), unless the Liquidating Trust Creditors' Committee so directs in accordance with its powers under the Liquidating Trust Agreement.

I. Dissolution of the Committee.

The Committee shall continue in existence until the Effective Date and shall exercise those powers and perform those duties specified in section 1103 of the Bankruptcy Code, and perform such other duties as it may have been assigned by the Court prior to the Effective Date. On the Effective Date, the Committee shall be dissolved and its members (solely in their capacities as members of the Committee) shall be deemed released of all their duties, responsibilities, and obligations in connection with the Chapter 11 Cases or the Plan and its implementation, and the retention or employment of the Committee's attorneys, accountants, and other agents shall terminate. All expenses of Committee members and the fees and expenses of their professionals through the Effective Date shall be paid in accordance with the terms and conditions of the Interim Compensation Procedures Order, the Confirmation Order and this Plan.

J. Termination of the Employment of the Debtors' Professionals.

Notwithstanding anything to the contrary herein, on the Effective Date, the retention of the Debtors' Professionals shall terminate and all fees and expenses of the Debtors' Professionals

through the Effective Date shall be paid in accordance with the terms and conditions of the Interim Compensation Procedures Order, the Confirmation Order and this Plan; provided, however, that, on and after the Effective Date, (i) the Liquidating Trustee shall accede to the Debtors' position with respect to any retention agreements that the Debtors may have with counsel that is representing the Debtors in connection with the Antitrust Claims and such other counsel as retained by the Debtors or the Committee pursuant to agreements described in Schedule VIII hereto, and (ii) such counsel shall be deemed to be counsel for the Liquidating Trust.

K. Quarterly Accounting

The Liquidating Trustee shall provide the Lenders and the Liquidating Trust Creditors' Committee with a written accounting on a quarterly basis, to be provided within thirty (30) days after the end of each calendar quarter, that identifies in reasonable detail (i) the sources of all cash or cash equivalents received by the Liquidating Trust and/or the Consolidated Estate or, as the case may be, the Debtors (in the event that all or some of the quarter in question took place in a period prior to the Effective Date) during the quarter, (ii) the calculations that resulted in any distributions made during the quarter to the Lenders pursuant to the Waterfall, (iii) expenses incurred and paid by the Liquidating Trust and/or the Consolidated Estate or, as the case may be, the Debtors (in the event that all or some of the quarter in question took place in a period prior to the Effective Date) during the quarter, and (iv) cash on hand as of the end of the quarter. The Liquidating Trust Creditors' Committee, or any member thereof, may at any time within thirty (30) days of the receipt of such written accounting, object thereto in writing, by providing the Liquidating Trustee with such written objection. If the Liquidating Trustee and such objecting party cannot resolve the objection consensually, both the Liquidating Trustee and the objecting party may heard by the Bankruptcy Court to resolve such dispute.

The Liquidating Trustee, the Liquidating Trust Creditors' Committee or any member thereof may (y) exclude any Person from receiving or reviewing any information otherwise to be provided by the Liquidating Trustee as described above (including any accounting described above), or (z) request that any such information only be provided subject to confidentiality terms (including the exclusion of any Person from any access to portions of such information), and may condition the provision or distribution of such information on an agreement to respect such confidentiality by any Person to receive such information. The Liquidating Trustee is authorized to take steps as necessary or useful, in the Liquidating Trustee's sole determination, to establish, maintain and enforce such exclusions or confidentiality terms. Notwithstanding anything set forth above to the contrary, the exclusions and confidentiality terms discussed hereinabove may provide for the exclusion of any member of the Liquidating Trustee Creditors' Committee from accessing any such information (subject to the next following sentence). Any confidentiality terms or exclusions from information sought or established as described in this paragraph shall be on a reasonable basis, such reasonableness being expressly deemed to include any good faith belief that such confidentiality terms or exclusions are necessary or useful to maximizing potential recovery on any Litigation Claims or other Liquidating Trust Assets. Any Person excluded from access to any information pursuant to confidentiality terms or exclusions described in this paragraph shall have standing and otherwise the right to challenge the reasonableness of such confidentiality terms and any such exclusion before the Bankruptcy Court

(on notice to the Person seeking or requiring such confidentiality terms or exclusions). Without limiting any other provision hereof providing for the retention of jurisdiction by the Bankruptcy Court, the Bankruptcy Court shall retain jurisdiction to hear, adjudicate and determine any request for confidentiality terms or exclusions from information as described in this paragraph or any challenge thereto. Notwithstanding any other term to the contrary herein, the Liquidating Trustee shall not be required to have or obtain the consent or direction of the Liquidating Trust Creditors' Committee to assert, seek, establish, maintain or enforce any confidentiality terms or exclusions from information as discussed in this paragraph.

ARTICLE VI.

INJUNCTION AND OTHER LIMITATIONS OF LIABILITY

A. Binding Effect of Confirmation.

This Plan, when approved and confirmed by the Bankruptcy Court, shall be deemed binding on the Debtors, the Committee and all creditors and all parties in interest and their successors and assigns in accordance with Section 1141 of the Bankruptcy Code.

B. Extension of the Automatic Stay.

Unless otherwise provided herein, all injunctions or stays applicable to the Assets of the Debtors' estates, whether pursuant to Section 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, will remain in full force and effect with respect to the Liquidating Trust and the Liquidating Trust Assets. Without limiting the preceding sentence, the effects of Section 362(a) of the Bankruptcy Code with regard to the Debtors and the Assets thereof shall remain in effect from the Confirmation through and including the Effective Date. In addition, the Liquidating Trustee shall have the right to invoke the provisions of the Bankruptcy Code made applicable by the Plan to the Liquidating Trust and all of the Bankruptcy Rules until the entry of a final decree closing these Chapter 11 Cases. The Plan does not release or waive any Litigation Claims.

C. Releases.

1. Releases by the Debtors.

On the Effective Date, each of the Debtors shall release unconditionally (i) each other, (ii) their respective advisors, accountants, investment bankers, consultants, and attorneys, and (iii) the Committee, and the members of and professionals employed by the Committee, and any of the Committee's advisors, accountants, investment bankers, consultants, attorneys, and representatives, from any and all claims, obligations, suits, judgments, damages, rights, causes of action, and liabilities whatsoever (other than the right to enforce the performance of the respective obligations, if any, of the Debtors under the Plan and the contracts, instruments, releases and other agreements delivered under the Plan including the Global Settlement Agreement), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity, or otherwise that are based in whole or in part on any act or omission, transaction, event, or other occurrence taking place, only on or

after the Petition Date and prior to or on the Effective Date and in any way relating to the Debtors, the Chapter 11 Cases, the Plan or the Disclosure Statement; provided, however, that, notwithstanding anything set forth above in this paragraph, the Debtors shall not be deemed to have released any of their former or present officers and directors; provided, further, that, notwithstanding anything set forth above in this paragraph, (A) the Debtors shall not be deemed to have released, waived or otherwise withdrawn any (1) objections to the fee applications of their Professionals that are pending on the Effective Date or that are Filed by such Professionals after the Confirmation Date, (2) claims against the Debtors' Professionals that have been asserted in actions that are pending on the Effective Date, (3) claims against counsel representing the Debtors in connection with the Antitrust Claims and claims against counsel otherwise representing the Debtors or the Committee on a contingency fee basis, but only if the retentions of such antitrust counsel and/or other contingency counsel contemplate their continued representation of the Liquidating Trust after the Effective Date (it being understood that these retentions shall be continued for the benefit of the Liquidating Trust as described in Articles V.J. and VIII of the Plan), or (4) claims against counsel that come to represent the Debtors or the Committee by a new or expanded retention authorized or approved at any time after the Confirmation Date and before or on the Effective Date; (B) claims against the Debtors' Professionals or the Committee's Professionals for ordinary malpractice, willful misconduct or gross negligence shall not be deemed to be released, waived or otherwise withdrawn; and (C) claims against any of the Debtors' Professionals or the Committee's Professionals shall not be deemed to be released, waived or otherwise withdrawn unless such Professional consented on the record at the Confirmation Hearing or in writing prior to the Confirmation Hearing to the payment of its Professionals Claim on a date later than the Effective Date, and (D) releases of the Committee members relate solely to their activities as Committee members (and nothing in the Plan shall release any Committee member from any claim or cause of action arising independently from its service on the Committee).

2. Releases by Holders of Claims and Interests.

On the Effective Date, to the fullest extent permissible under applicable law, as such law may be extended or interpreted subsequent to the Effective Date, in consideration for the obligations of the Debtors under the Plan, the rights as otherwise set forth in the Plan to Distributions (if any) and as a Beneficiary (if any), and the Cash and other contracts, instruments, releases, agreements or documents to be delivered in connection with the Plan (if any), each entity (other than a Debtor) that has held, holds or may hold a Claim or Interest, as applicable, will be deemed to forever release, waive and discharge all claims, demands, debts, rights, Causes of Action or liabilities against the Consolidated Estate, the Liquidating Trust, the Liquidating Trustee, the Committee (including its members) and their respective post-petition advisors and attorneys (other than the right to enforce the Debtors', the Liquidating Trust's, the Liquidating Trustee's, or other parties' obligations under the Plan and the contracts, instruments, releases, agreements and documents delivered under the Plan, including the Global Settlement Agreement), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or in part on any act or omission, transaction, event or other occurrence taking place on or after the Petition Date and prior to or on the Effective Date in any way relating

to the Debtors, the Chapter 11 Cases, the Plan or the Disclosure Statement that such entity has, had or may have against the Consolidated Estate, the Liquidating Trust, the Liquidating Trustee, the Committee (including its members) and their respective post-petition advisors and attorneys; provided, that the holders of Claims and Interests shall not be deemed to have released, waived or otherwise withdrawn any (A) objections to the fee applications of the Debtors' Professionals that are pending on the Effective Date or that are Filed by such Professionals after the Confirmation Date or (B) claims against the Debtors' Professionals that have been asserted in actions that are pending on the Effective Date; provided, further, that claims against the Debtors' Professionals or the Committee's Professionals for ordinary malpractice, willful misconduct or gross negligence shall not be deemed to be released, waived or otherwise withdrawn; provided, further, that claims against any of the Debtors' Professionals or the Committee's Professionals shall not be deemed to be released, waived or otherwise withdrawn unless such Professional consented on the record at the Confirmation Hearing or in writing prior to the Confirmation Hearing to the payment of its Professionals Claim on a date later than the Effective Date.

3. Injunction Related to Releases.

The Confirmation Order will permanently enjoin the commencement or prosecution by any entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to the Plan, including, but not limited to the claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action or liabilities released in this Article VI.

D. Intentionally Omitted.

E. Exculpation and Limitation of Liability.

None of the Debtors, the Committee, its members, the Liquidating Trust Creditors' Committee, its members, the Liquidating Trust, the Liquidating Trustee, nor any of their respective present or former advisors or attorneys, shall have or incur any liability to, or be subject to any right of action by, any holder of a Claim or an Interest, or any other party in interest, or any of their respective agents, shareholders, employees, representatives, financial advisors, attorneys or affiliates, or any of their successors or assigns, for any act or omission occurring on or after the Petition Date in connection with, relating to, or arising out of, the Debtors' Chapter 11 Cases, the pursuit of Confirmation of the Plan, the consummation of the Plan or the administration of the Plan or the Liquidating Trust, or the property to be distributed under the Plan, except for their willful misconduct or gross negligence, and in all respects shall be entitled to rely reasonably upon the advice of counsel with respect to their duties and responsibilities under the Plan; provided, however, that the Plan does not release or otherwise affect any Cause of Action against any former or present director or officer of any of the Debtors; provided, further, that the Plan does not release or otherwise affect any (i) objections to the fee applications of the Debtors' Professionals that are pending on the Effective Date or that are Filed by such Professionals after the Confirmation Date, (ii) claims that have been asserted against the Debtors' Professionals in actions that are pending on the Effective Date, (iii) claims against counsel representing the

Debtors in connection with the Antitrust Claims and claims against counsel otherwise representing the Debtors or the Committee on a contingency fee basis, but only if the retentions of such antitrust counsel and/or other contingency counsel contemplate their continued representation of the Liquidating Trust after the Effective Date (it being understood that these retentions shall be continued for the benefit of the Liquidating Trust as described in Articles V.J. and VIII of the Plan), or (iv) claims against counsel that come to represent the Debtors or the Committee by a new or expanded retention authorized or approved at any time after the Confirmation Date and before or on the Effective Date; provided, further, that claims against the Debtors' Professionals or the Committee's Professionals for ordinary malpractice, willful misconduct or gross negligence shall not be deemed to be released, waived or otherwise withdrawn.

F. Injunction.

Except as provided in the Plan or the Confirmation Order with respect to the rights of and treatment afforded holders of Allowed Claims and Allowed Interests, as of the Effective Date, all Persons who have held, hold or may hold Claims, rights, Causes of Action, liabilities or any Interests with respect to the Consolidated Estate, the Debtors, the Debtors' Assets or the Liquidating Trust Assets based upon any act or omission, transaction or other activity of any kind or nature that occurred or arose prior to the Effective Date, regardless of the Filing, lack of Filing, allowance or disallowance of such a Claim or Interest and regardless of whether such Person has voted to accept the Plan and any successors, assigns or representatives of the foregoing, will be precluded and permanently enjoined on and after the Effective Date from, on account of such Claims, rights, Causes of Action, liabilities or any equity Interests: (1) commencing or continuing in any manner any action or other proceedings against the Liquidating Trust, the Liquidating Trustee, the Liquidating Trust Assets, the Liquidating Trust Creditors' Committee, the Consolidated Estate, the Post Confirmation Professionals, or the Agent or the Lenders (but, in the case of the Agent and the Lenders, solely to the extent relating to and arising from Claims released by the Debtors, their estates and the Committee in Section 21.b of the Global Settlement Agreement); (2) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against the Liquidating Trust, the Liquidating Trustee, the Liquidating Trust Assets, the Liquidating Trust Creditors' Committee, the Consolidated Estate, the Post Confirmation Professionals, or the Agent or the Lenders (but, in the case of the Agent and the Lenders, solely to the extent relating to and arising from Claims released by the Debtors, their estates and the Committee in Section 21.b of the Global Settlement Agreement); (3) creating, perfecting or enforcing any lien or encumbrance against the Liquidating Trust, the Liquidating Trustee, the Liquidating Trust Assets, the Liquidating Trust Creditors' Committee, the Consolidated Estate, the Post Confirmation Professionals, or the Agent or the Lenders (but, in the case of the Agent and the Lenders, solely to the extent relating to and arising from Claims released by the Debtors, their estates and the Committee in Section 21.b of the Global Settlement Agreement); (4) asserting against the Liquidating Trust, the Liquidating Trustee, the Liquidating Trust Assets, the Liquidating Trust Creditors' Committee, the Consolidated Estate, the Post Confirmation Professionals, or the Agent or the Lenders (but, in the case of the Agent and the Lenders, solely to the extent relating to and arising from Claims released by the Debtors, their estates and the Committee in Section 21.b of the Global Settlement

Agreement), a setoff, right or claim of subordination or recoupment of any kind against any debt, liability or obligation due to the Consolidated Estate; and (5) commencing or continuing any action, in any manner, in any place that does not comply with or that is inconsistent with the provisions of the Plan (including, without limitation, the Global Settlement Agreement); provided, however, that nothing contained herein shall preclude such persons from exercising their rights pursuant to and consistent with the terms of the Plan the Liquidating Trust Agreement or the Confirmation Order, or the documents, contracts, instruments and agreements executed in relation thereto (including, without limitation, the Global Settlement Agreement).

ARTICLE VII.

OBJECTIONS TO CLAIMS AND INTERESTS

Subject to further order of the Bankruptcy Court, the Liquidating Trustee will, and is hereby authorized to, File any objections to Claims and Interests by the Claim Objection Deadline. Without limitation, such objections may include any challenge, objection or adversary proceeding to or against any Claim as to amount, status, priority or otherwise, and expressly include actions or other proceedings for subordination of Claims on any basis. The Liquidating Trustee shall have the authority to file, File, settle, compromise, withdraw, arbitrate or litigate to judgment objections to any and all Claims and Interests pursuant to applicable procedures established by the Bankruptcy Code, the Bankruptcy Rules and this Plan.

The failure by the Debtors or the Committee to object to any Claim or Interest for voting purposes shall not be deemed a waiver of the Liquidating Trustee's right to object to, or re-examine, any such Claim or Interest in whole or in part.

To the extent that an objection to a Claim is Filed and remains unresolved as of the Effective Date, distribution on such Disputed Claim shall not be made unless and until a Final Order is entered allowing such Disputed Claim. The Liquidating Trustee shall account for all Disputed Claims at such time as he makes a Distribution under this Plan through the Disputed Claims Fund. On the Effective Date, the Liquidating Trustee shall prosecute in the place of the Debtors or the Committee, as applicable, any and all outstanding objections to Claims and Interests.

ARTICLE VIII.

EXECUTORY CONTRACTS AND LEASES

Except for the contracts and leases listed on Schedule VIII hereto (which contracts and leases, to the extent that they are executory or, as the case may be, unexpired, are deemed assumed as of the Effective Date), all executory contracts and unexpired leases not previously assumed or rejected by the Debtors' under Section 365 of the Bankruptcy Code with the approval of the Bankruptcy Court are hereby rejected by the Debtors as of the Confirmation Date. The Confirmation Order shall constitute an Order of the Bankruptcy Court approving all such rejections hereunder as of the Effective Date. Any Claim for damages arising from any such rejection must be Filed within 30 days after the mailing of notice of the entry of the

Confirmation Order or such Claim shall be forever barred, shall not be enforceable against the Debtors, the Consolidated Estate, the Liquidating Trustee, the Liquidating Trust, or any of the Assets of the Consolidated Estate or the Liquidating Trust Assets and shall receive no distribution under this Plan or otherwise on account of such Claim. Any monetary amounts by which each executory contract and unexpired lease to be assumed under the Plan may be in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by cure on the Effective Date or as soon thereafter as practicable. In the event of a dispute regarding (i) the nature or amount of any cure, (ii) the ability of the Debtors or any assignee of the Debtors to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under the contract or lease to be assumed, or (iii) any other matter pertaining to assumption or assignment, cure shall occur following the entry of a Final Order resolving the dispute and approving the assumption and, as the case may be, assignment. The Confirmation Order shall constitute an order of the Court approving the assumptions (as assignments, as the case may be) described in this Article VIII, pursuant to section 365 of the Bankruptcy Code, as of the Effective Date. The listing of contracts and leases set forth on Schedule VIII hereto may be changed by the Committee at any time prior to the Confirmation Hearing, and any such modified Schedule VIII shall be Filed.

ARTICLE IX.

DISTRIBUTIONS

A. Distributions Under the Plan.

Subject to the terms of the Plan, all Distributions under this Plan shall be made by the Liquidating Trustee. Other than Distributions to the Agent and the Lenders, which are governed by the Global Settlement Agreement (and only to the extent that the Global Settlement Agreement requires a different result), Distributions to any holder of an Allowed Claim shall be allocated first to the principal portion of any such Allowed Claim, and, only after the principal portion of any such Allowed Claim is satisfied in full, to any portion of such Allowed Claim comprising interest (but solely to the extent that interest is an allowable portion of such Allowed Claim pursuant to this Plan or otherwise). All payments shall be made in accordance with the priorities established in the Bankruptcy Code unless otherwise provided in this Plan or agreed to with the payee.

B. Delivery of Distributions in General.

Distributions to holders of Allowed Claims and Allowed Interests shall be made: (a) at the addresses set forth in the proofs of Claim or Interest Filed by such holders; (b) at the addresses set forth in any written notices of address or change thereof delivered to the Liquidating Trust after the Effective Date; (c) if to the Agent or Lenders, in accordance with the Global Settlement Agreement; or (d) at the addresses reflected in the Schedules relating to the applicable Allowed Claim or Allowed Interest if no proof of Claim or Interest has been Filed and the Debtors (before the Effective Date) or, as the case may be, the Liquidating Trustee (on or after the Effective Date) has not received a written notice of a change of address.

C. Cash Payments.

Cash payments to be made pursuant to this Plan shall be made by checks drawn on a domestic bank or by wire transfer from a domestic bank, at the option of the Liquidating Trustee.

D. Interest on Claims.

Unless otherwise specifically provided for in this Plan (including the Global Settlement Agreement) or the Confirmation Order or required by applicable bankruptcy law, post-Petition Date interest shall not accrue or be paid on Claims, and no holder of a Claim shall be entitled to interest accruing on or after the Petition Date on any Claim. Interest shall not accrue or be paid upon any Disputed Claim in respect of the period from the Petition Date to the date a final Distribution is made thereon if and after such Disputed Claim becomes an Allowed Claim. Notwithstanding the foregoing or anything to the contrary herein, (i) the holders of Allowed Claims in Classes 3 and 4 shall be entitled to interest accruing on and after the Effective Date at a rate calculated in accordance with 28 U.S.C. § 1961 on account of such Allowed Claims in Classes 3 and 4 before any Distributions may be made on account Allowed Subordinated Claims in Class 5 and (ii) the holders of Allowed Claims in Classes 3, 4 and 5 shall be entitled to receive interest accruing on and after the Effective Date at a rate calculated in accordance with 28 U.S.C. § 1961 on account of such Allowed Claims in Classes 3, 4 and 5 before any Distributions may be made on account of Allowed Interests in Class 6. Such interest shall be simple, shall not be compounded, and shall only be on the amount of such Allowed Claims to the extent outstanding at any time on and after the Effective Date. If interest is required to be paid under this Section, the amount of such interest shall be Distributed in the same manner as Distributions on the Allowed Claims in the applicable Classes 3, 4 and 5, and Distributions with respect thereto shall be made as described in Article IV. C. of this Plan.

E. No De Minimus Distributions.

Other than in the final Distribution, no payment of Cash in an amount of less than \$10 shall be made on account of any Allowed Claim or Allowed Interest. Such undistributed amount will instead be made part of the Cash available for use in accordance with this Plan. Notwithstanding anything herein to the contrary, if, after the final Distribution hereunder, the Collected Cash Accounts contain an amount less than \$50.00, then such funds shall be treated as Unclaimed Property and disposed of in accordance with the provisions of this Plan.

F. Failure to Negotiate Checks.

Other than Distributions to the Agent or Lenders, checks issued in respect of Distributions under this Plan shall be null and void if not negotiated within ninety (90) days after the date of issuance. Any amounts returned in respect of such non-negotiated checks shall be deemed Unclaimed Property. All such amounts that become Unclaimed Property and all Claims in respect of void checks and the underlying Distributions shall be forever barred, estopped and enjoined from assertion in any manner against the Liquidating Trustee, the Liquidating Trust and the Liquidating Trust Assets.

G. Unclaimed Property.

If any Distribution of funds becomes Unclaimed Property prior to the final Distribution, such funds shall be redistributed to other creditors or holders of Allowed Interests in accordance with the terms hereof pursuant to Local Bankruptcy Rule 3011-1(B)(2). If any Distribution of funds becomes Unclaimed Property after the final Distribution, such funds shall be deposited into the registry of the Bankruptcy Court in accordance with the procedures of the Bankruptcy Court for Chapter 7 cases pursuant to Local Bankruptcy Rule 3011-1(B)(1). Notwithstanding anything to the contrary set forth in the immediately preceding sentence, to the extent, after the final Distribution, there remains ~~Unclaimed Property, or otherwise unclaimed funds or~~ undistributable funds as described in Local Bankruptcy Rule 3011-1(B) ~~or (C), respectively,~~ the Liquidating Trustee shall have authority to donate such ~~Unclaimed Property and any such funds~~ to the following not-for-profit, non-religious organizations: Proliteracy Worldwide, Inc., a New York not-for-profit corporation, and The Bankruptcy Bar Foundation of the Southern District of Florida, Inc.

The Liquidating Trustee and the Post Confirmation Professionals shall have no obligation to locate the holder of a Claim or Interest whose distribution or notice is properly mailed but nevertheless returned.

H. No Payment or Distribution Pending Allowance.

All references to Claims and amounts of Claims refer to the amount of the Claim allowed by operation of law, Final Order or this Plan. Accordingly, notwithstanding any other provision in this Plan, no payment or Distribution shall be made on account of or with respect to any Claim to the extent it is a Disputed Claim, unless and until the Disputed Claim becomes an Allowed Claim. No partial distributions will be made while an objection is pending to part or all of a Claim. No Distributions (partial or otherwise) shall be made on account of any Interest while an objection is pending to all or part of such Interest; provided, that, in the event Distributions are to be made on account of Allowed Interests, the Liquidating Trustee shall reserve funds that are sufficient in the Liquidating Trustee's sole discretion to satisfy such Interest if it is allowed.

I. Disputed Distributions.

If any dispute arises as to the identity of a holder of an Allowed Claim who is to receive any Distribution, the Liquidating Trust may, in lieu of making such Distribution to such holder, make such Distribution (or any amount estimated pursuant to Section 502(c) of the Bankruptcy Code) into the Disputed Claims Fund until the disposition thereof shall be determined by Final Order of the Bankruptcy Court or by written agreement among the interested parties to such dispute.

J. Estimation of Disputed Claims.

In order to effectuate Distributions pursuant to this Plan and avoid undue delay in the administration of the Consolidated Estate, the Liquidating Trust shall have the right, at any time, to seek an order of the Bankruptcy Court, after notice and a hearing (which notice may be limited to the holder of such Disputed Claim and which hearing may be held on an expedited basis), estimating a Disputed Claim pursuant to Section 502(c) of the Bankruptcy Code, irrespective of

whether the Debtors, the Committee or the Liquidating Trust as applicable, has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection. All of these objection and resolution procedures are cumulative and not necessarily exclusive of one another.

K. Distributions in Complete Satisfaction.

The Distributions and rights provided under this Plan shall be in complete satisfaction, discharge and release, effective as of the Effective Date, of all Claims against and Interests in the Debtors' estates and all liens upon the Consolidated Estate, any Assets of Debtors or the Liquidating Trust Assets. The holders of liens satisfied, discharged and released under this Plan shall execute and deliver, or cause to be executed and delivered, any and all documentation reasonably requested by the Liquidating Trustee evidencing the satisfaction, discharge and release of such liens.

L. Compliance with Tax Requirements.

In connection with this Plan and the Distributions made in accordance thereto, to the extent applicable, the Liquidating Trust shall comply with all tax withholding and reporting requirements imposed on it by any federal, state or local taxing authorities and all distributions pursuant to this Plan shall be subject to such withholding and reporting requirements. The Liquidating Trust shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements.

ARTICLE X.

PROVISIONS TO INVOKE CRAMDOW PROCEEDINGS IF NECESSARY

If all of the applicable requirements of Section 1129(a) of the Bankruptcy Code are met other than Paragraph 8 of said such section which requires that all Impaired Classes accept the Plan, the Committee will then seek confirmation pursuant to Section 1129(b) of the Bankruptcy Code, which is commonly referred to as the "cram down" provision. For purposes of seeking Confirmation under the cram down provision of the Bankruptcy Code, should that alternative means of Confirmation prove to be necessary, the Committee reserves the right to modify or vary the terms of the Plan with regard to the Allowed Claims of any rejecting classes, so as to comply with the requirements of Section 1129(b).

ARTICLE XI.

AMENDMENT AND MODIFICATION

The Committee may alter, amend, or modify this Plan under Section 1127 of the Bankruptcy Code or as otherwise permitted at any time before or on the Confirmation Date. After the Confirmation Date and before the substantial consummation of this Plan, and in accordance with the provisions of Section 1127(b) of the Bankruptcy Code and the Bankruptcy Rules, the Liquidating Trust, may, so long as the treatment of holders of Claims under this Plan is not adversely affected, institute proceedings in the Bankruptcy Court to remedy any defect or omission or to reconcile any inconsistencies in this Plan, the Disclosure Statement, or the

Confirmation Order and any other matters as may be necessary to carry out the purposes and effects of this Plan; provided, however, that prior notice of such proceedings shall be served in accordance with Bankruptcy Rule 2002.

ARTICLE XII.

REVOCATION

The Committee reserves the right, at any time prior to the Effective Date, to revoke or withdraw this Plan for any reason whatsoever (including, without limitation, if the Confirmation Order is any way not satisfactory to the Committee in its sole discretion). If this Plan is revoked or withdrawn or if the Confirmation Date does not occur, this Plan shall be null and void and have no force and effect. In such event, nothing contained herein shall be deemed to constitute a waiver or release of any Claims or Interests by or against the Debtors or any other Person (including the Committee), constitute an admission of any fact or legal conclusion by the Debtors or any other Person (including the Committee) or to prejudice in any manner the rights of the Debtors or any Person in any further proceedings involving the Debtors or the Committee.

ARTICLE XIII.

RETENTION OF JURISDICTION

A. Generally.

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall retain after the Effective Date exclusive jurisdiction of all matters arising out of, arising in or related to, the Chapter 11 Cases to the fullest extent permitted by applicable law, including, without limitation, jurisdiction to:

1. determine all controversies and disputes arising under or in connection with the Plan and the Consolidated Estate, including all agreements referred to in the Plan and the Global Settlement Agreement, including but not limited to, all Litigation Claims brought by the Liquidating Trustee;
2. allow, disallow, determine, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim or Interest (whether Filed before or after the Effective Date and whether or not contingent, disputed or unliquidated), including the compromise, settlement and resolution of any request for payment of any Administrative Claim or Priority Claim, the resolution of any objections to the allowance or priority of Claims or Interests and the resolution of any dispute as to the treatment necessary to reinstate a Claim pursuant to this Plan, and to hear and determine any other issue presented hereby or arising hereunder, including during the pendency of any appeal relating to any objection to such Claim or Interest (to the extent permitted under applicable law);
3. grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or this Plan, for services provided on or before the Effective Date;

4. hear and determine motions, applications, adversary proceedings, contested matters and other litigated matters pending on, Filed or commenced after the Effective Date, including proceedings with respect to the rights and Claims of the Liquidating Trustee to recover property under Sections 542, 543 or 553 of the Bankruptcy Code (or otherwise with respect to Avoidance Actions), or to bring any Litigation Claims, or otherwise to collect or recover on account of any Claim or Litigation Claim;

5. determine and resolve any matters related to the assumption, assumption and assignment, or rejection of any executory contract or unexpired lease to which any of the Debtors is a party or with respect to which any of the Debtors or the Consolidated Estate may be liable, and to hear, determine and, if necessary, liquidate any Claims arising therefrom;

6. ensure that all payments due under this Plan and performance of the provisions of this Plan are accomplished as provided herein, and resolve any issues relating to distributions to holders of Allowed Claims and Allowed Interests pursuant to the provisions of this Plan;

7. construe, take any action and issue such orders, prior to and following the Confirmation Date and consistent with Section 1142 of the Bankruptcy Code, as may be necessary for the enforcement, implementation, execution and consummation of this Plan and all contracts, instruments, releases, indentures and other agreements or documents that are part of the Liquidating Trust;

8. determine and resolve any cases, controversies, suits or disputes that may arise in connection with the consummation, interpretation, implementation or enforcement of this Plan (and all Exhibits to this Plan) or the Confirmation Order, including the indemnification and injunction provisions set forth in and contemplated by this Plan or the Confirmation Order, or any Person's rights arising under or obligations incurred in connection therewith;

9. consider any modification of the Plan under Section 1127 of the Bankruptcy Code;

10. issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Person with consummation, implementation or enforcement of this Plan or the Confirmation Order;

11. enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked or vacated;

12. determine any other matters that may arise in connection with or relating to this Plan, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, indenture or other agreement or document created in connection with this Plan, the Disclosure Statement or the Confirmation Order, except as otherwise provided in this Plan;

13. hear and determine any other matters related hereto and not inconsistent with chapter 11 of the Bankruptcy Code;

14. continue to enforce the automatic stay through the date of the final Distribution hereunder;

15. hear and determine: (i) disputes arising in connection with the interpretation, implementation or enforcement of this Plan and the Confirmation Order; or (ii) issues presented or arising under this Plan and Confirmation Order, including disputes arising under agreements, documents or instruments executed in connection with this Plan or the Confirmation Order (including the Global Settlement Agreement);

16. shorten or extend, for cause, the time fixed for performance of any act or thing under this Plan or the Confirmation Order (including any motion by the Liquidating Trustee to extend the Claim Objection Deadline), on notice or ex-parte, as the Bankruptcy Court shall determine to be appropriate;

17. enter any order, including injunctions, necessary to enforce the title, rights and powers of the Liquidating Trust and the Liquidating Trustee and to impose such limitations, restrictions, terms and conditions on such title, rights and powers as the Bankruptcy Court may deem necessary;

18. review any action taken or not taken by the Liquidating Trustee and to appoint the or any successor to the Liquidating Trustee, if necessary;

19. adjudicate any settlements pursuant to Bankruptcy Rule 9019, if required or permitted under this Plan or the Confirmation Order and all other matters contained herein;

20. enter any order permitting Filings to be made under seal pursuant to Bankruptcy Code Section 107(b) or otherwise;

21. resolve any dispute regarding the reasonableness and/or payment of Post-Confirmation Administrative Expenses, including the fees and expenses of the Liquidating Trustee, the Liquidating Trustee's Professionals, and the Liquidating Trust Creditors' Committee's Professionals;

22. enter a Final Decree closing the Chapter 11 Cases or converting this case to a chapter 7 case; and

23. enter any orders necessary to effectuate the Confirmation Order and the Plan or in aid of the consummation of the Plan (including orders that effect legal or equitable remedies, including by injunctive relief); provided however, that, notwithstanding anything to the contrary which may be set forth above, the terms hereof shall not limit the courts, tribunals or other venues that the Liquidating Trustee may select (or consent or acquiesce to) for the bringing or prosecution of any Litigation Claims or any Causes of Action related thereto, and any jurisdiction or venue which may have otherwise been available to any of the Debtors with regard to the foregoing shall be available to the Liquidating Trustee.

B. Venue.

For all Causes of Action as to which the Bankruptcy Court shall retain jurisdiction above, venue shall be appropriate in and before the Bankruptcy Court.

C. Failure of Bankruptcy Court to Exercise Jurisdiction.

If the Bankruptcy Court abstains from exercising or declines to exercise jurisdiction over any matter arising under, arising in or related to the Liquidating Trust, this Article shall not prohibit or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such subject matter. The Liquidating Trustee shall have the authority to request that the Bankruptcy Court refrain or abstain from exercising, or decline to exercise, jurisdiction over any of the matters described in this Article XIII.

ARTICLE XIV.

MISCELLANEOUS PROVISIONS

A. Substantial Consummation of Plan.

For purposes of any future analysis regarding, *inter alia*, appellate issues, modification of Plan, administration of the Plan and jurisdiction of the Bankruptcy Court, this Plan shall be deemed substantially consummated upon the Effective Date.

B. Confirmation Order Controls.

To the extent the Disclosure Statement or any agreement entered into between or among the Debtors, the Committee, the Liquidating Trust, the Liquidating Trustee or any third party, is inconsistent with the Plan, the Plan shall control. To the extent that the Plan, the Disclosure Statement or any agreement entered into between or among the Debtors, the Committee, the Liquidating Trust, the Liquidating Trustee or any third party, is inconsistent with the Confirmation Order, the Confirmation Order shall control. The foregoing is subject, however, to Section S.1. below of this Article XIV.

C. Headings.

The headings of the Articles, Sections and sub-Sections herein are inserted for convenience only and shall not affect the interpretation of the Plan.

D. Successors and Assigns.

This Plan and all of the provisions hereof shall be binding upon and inure to the benefit of the Consolidated Estate, all Claimants, all holders of Interest, and other interested parties and their respective heirs, executors, administrators, successors and assigns.

E. Notices.

Any notice required or permitted to be provided under this Plan shall be in writing and served by (i) Certified mail, return receipt requested, postage prepaid, (ii) hand delivery, or (iii) reputable overnight delivery service, freight prepaid; provided, however, that the recipient of any such notice may waive such methods of delivery and consent to any other; and provided further that this provision does not limit or alter the methods of service otherwise permitted or required

by the Bankruptcy Code or the Bankruptcy Rules, or any other applicable non-bankruptcy law with regard to notices or other pleadings described therein.

F. Exemption from Taxes.

Pursuant to Section 1146(a) of the Bankruptcy Code, the issuance, transfer or exchange of any security or the making or delivery of any instrument of transfer under this Plan may not be taxed under any law imposing a stamp tax, use tax, sales tax or similar tax. Any sale of any Asset occurring before, after or upon the Effective Date shall be deemed to be in furtherance of this Plan.

G. Binding Effect of Plan.

The provisions of this Plan, the Confirmation Order, the Liquidating Trust Agreement, and the Global Settlement Agreement shall be binding upon and inure to the benefit of the Debtors, the Committee, the Liquidating Trustee, the Consolidated Estate, any holder of any Claim or Interest treated herein or any Person named or referred to in this Plan, and each of their respective heirs, executors, administrators, representatives, predecessors, successors, assigns, agent, officers and directors, and, as to the binding effect, to the fullest extent permitted under the Bankruptcy Code and other applicable law, each other Person affected by this Plan, the Confirmation Order, the Liquidating Trust Agreement, and the Global Settlement Agreement.

H. Final Order.

Except as otherwise expressly provided in this Plan, any requirement in this Plan for a Final Order may be waived by the Committee or, after the Effective Date, the Liquidating Trust upon written notice to the Bankruptcy Court. No such waiver shall prejudice the right of any party in interest to seek a stay pending appeal of any order that is not a Final Order.

I. Business Days.

If any payment or act under this Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

J. Severability of Plan Provisions.

If prior to Confirmation any term or provision of this Plan that does not govern on appeal the treatment of Claims or Interests is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and

shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

K. Governing Law.

EXCEPT TO THE EXTENT THAT THE BANKRUPTCY CODE OR BANKRUPTCY RULES OR OTHER FEDERAL LAWS ARE APPLICABLE, AND SUBJECT TO THE PROVISIONS OF ANY CONTRACT, INSTRUMENT, RELEASE, INDENTURE OR OTHER AGREEMENT OR DOCUMENT ENTERED INTO IN CONNECTION WITH THIS PLAN, THE CONSTRUCTION, IMPLEMENTATION AND ENFORCEMENT OF THIS PLAN AND ALL RIGHTS AND OBLIGATIONS ARISING UNDER THIS PLAN SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO CONFLICTS OF LAW PRINCIPLES WHICH WOULD APPLY THE LAW OF A JURISDICTION OTHER THAN THE STATE OF NEW YORK OR THE UNITED STATES OF AMERICA.

L. Filing of Additional Documents.

On, before and after substantial consummation of this Plan, the Committee (before the Effective Date) or the Liquidating Trustee (after the Effective Date) shall issue, execute, deliver, and File or record any agreements and other documents, and take any action as may be necessary or appropriate to effectuate, consummate and further evidence the terms and conditions of this Plan, including by making such supplemental disclosures or notices as the Committee or the Liquidating Trustee, as applicable, deems useful.

M. Time.

Unless otherwise specified herein, in computing any period of time prescribed or allowed by this Plan, the day of the act or event from which the designated period begins to run shall not be included. The last day of the period so computed shall be included, unless it is not a Business Day, in which event the period runs until the end of next succeeding day that is a Business Day. Otherwise, the provisions of Bankruptcy Rule 9006 shall apply.

N. No Attorneys' Fees.

No attorneys' fees will be paid with respect to any Claim or Interest, except as expressly specified herein or in the Global Settlement Agreement, or as allowed by a Final Order of the Bankruptcy Court.

O. Preservation of Rights of Setoff.

The Debtors or the Liquidating Trust, as the case may be, may, but shall not be required to, set off or recoup against any Claim or Interest, and the payments or other Distributions to be made pursuant to this Plan in respect of such Claim or Interest, claims of any nature whatsoever that the Consolidated Estate may have had against the holder of such Claim or Interest; but neither the failure to do so nor the allowance of any Claim or any Interest hereunder shall constitute a waiver or release by the Debtors or the Liquidating Trust of any such claim that the Debtors' estates, the Consolidated Estate or the Liquidating Trust may have against such holder.

P. Defenses with Respect to Unimpaired Claims.

Except as otherwise provided in this Plan, (i) nothing shall affect the rights and legal and equitable defenses of the Debtors or the Liquidating Trust with respect to any unimpaired Claim, including all rights in respect of legal and equitable defenses to setoffs or recoupments against unimpaired Claims, and (ii) without limitation of any other rights of the Liquidating Trust, all rights that the Debtors may have had or may have to object to any Claim on any basis or to otherwise set off or recoup against any Claim are preserved for the benefit of the Liquidating Trust.

Q. No Injunctive Relief.

No Claim or Interest nor any holder thereof shall under any circumstances be entitled to specific performance or other injunctive, equitable, or other prospective relief.

R. No Admissions.

Notwithstanding anything herein to the contrary, nothing contained in this Plan shall be deemed an admission by the Committee, the Debtors or the Liquidating Trustee with respect to any matter set forth herein, including, without limitation, liability on any Claim or Interest or the propriety of any classification of any Claim or Interest.

S. Global Settlement Agreement and Liquidating Trust Agreement.

1. The terms of the Global Settlement Agreement shall be treated as if comprising terms of this Plan, and the Global Settlement Agreement is incorporated herein by reference. Nothing in this Plan or the Confirmation Order is intended to modify the Global Settlement Agreement, which shall remain in full force and effect after the Effective Date so that, in the event of any conflict between the Global Settlement Agreement, on the one hand, and the Plan, the Disclosure Statement, or the Confirmation Order, on the other hand, the Global Settlement Agreement, shall control. This Plan shall be deemed to and does fulfill the requirements of Section 15 of the Global Settlement Agreement. The Liquidating Trustee shall be considered a successor to the rights and obligations of the Debtors and the Committee under the Global Settlement Agreement. Without limiting the foregoing, and notwithstanding any provision to the contrary in this Plan, in accordance with the Global Settlement Agreement, (i) the Lenders' Claims are Allowed Claims in accordance with and subject to the terms of the Global Settlement Agreement, and (ii) all payments made to or for the benefit of the Lenders by the Debtors on account of the Lenders' Claims prior to the Effective Date shall be deemed allowed and indefeasible.

2. The terms of the Liquidating Trust Agreement shall be treated as if comprising terms of this Plan and is incorporated herein by reference; provided, however, if there shall be a conflict between the terms of the Liquidating Trust Agreement and those of this Plan, the terms of this Plan shall prevail.

T. Entire Agreement.

This Plan sets forth the entire agreement and undertakings relating to the subject matter hereof and supersedes all prior discussions and documents. The Debtors, the Committee and the Liquidating Trustee shall not be bound by any terms, conditions, definitions, warranties, understandings, or representations with respect to the subject matter hereof, other than as expressly provided for herein or as may hereafter be agreed to by the parties in writing.

ARTICLE XV.

CONFIRMATION REQUEST

Classes 5 and 6 are not expected to receive any Distribution on account of their Claims and Interests under the Plan and are therefore deemed to have rejected this Plan. The Committee therefore requests that the Bankruptcy Court confirm this Plan under the cramdown provisions of Section 1129(b) of the Bankruptcy Code with respect to Class 5 and Class 6, as well as with respect to any other Class that does not vote to accept this Plan on the basis that this Plan is fair and equitable, and does not discriminate unfairly, with respect to each Class of Claims or Interests that is Impaired under, and has not accepted, this Plan.

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ARTICLE XVI.

CONCLUSION

The aforesaid provisions shall constitute the ~~Revised Second~~**Third** Amended Plan of Liquidation of the Committee. This Plan, when approved and confirmed by the Bankruptcy Court, shall be deemed binding on the Debtors, the Committee and the Liquidating Trustee and all creditors and all parties in interest and their successors and assigns in accordance with Section 1141 of the Bankruptcy Code.

Respectfully submitted this ~~169th~~ day of ~~January~~**April**, 2009

By: /s/ James Jones

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James Jones

*Chairperson of the Official Committee of Unsecured
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